K062	NA	Table CCW in 268.43	Chromium (Total)	7440-47-32	NA	0.094	
			Lead	7439-92-1	NA	0.37	
K069 (Calcium Sulfate Subcategory).	NA	Table 2 in 268.42 and Table CCW in 268.43	Cadmium	7440-43-9	NA	0.14	
			Lead	7439-92-1	NA	0.24	
K071	NA	Table CCW in 268.43	Mercury	7439-97-6	NA	0.025	
K083	NA	Table CCW in 268.43	Nickel	7440-02-2	NA	0.088	
K084	NA	Table CCW in 268.43	Arsenic	7440-38-2	NA	5.6	(1)
K086	NA	Table CCW in 268.43	Chromium (Total)	7440-47-32	NA	0.094	
			Lead	7439-92-1	NA	0.37	
K087	NA	Table CCW in 268.43	Lead	7439-92-1	NA	0.51	
K100	NA	Table CCW in 268.43	Cadmium	7440-43-9	NA	0.066	
			Chromium (Total)	7440-47-32	NA	5.2	
			Lead	7439-92-1	NA	0.51	
K101	NA	Table CCW in 268.43	Arsenic	7440-38-2	NA	5.6	(1)
K102	NA	Table CCW in 268.43	Arsenic	7440-38-2	NA	5.6	(1)
K106 (Low Mercury Subcategory- less than 260 mg/kg Mercury - residues from RMERC).	NA	Table 2 in 268.42 and Table CCW in 268.43	Mercury	7439-97-6	NA	0.020	
K106 (Low Mercury Subcategory- less than 260 mg/kg Mercury- that are not residues from RMERC).	NA	Table 2 in 268.42 and Table CCW in 268.43	Mercury	7439-97-6	NA	0.025	
K115	NA	Table CCW in 268.43	Nickel	7440-02-0	NA	0.32	
P010	Arsenic acid	Table CCW in 268.43	Arsenic	7440-38-2	NA	5.6	(1)
P011	Arsenic pentoxide	Table CCW in 268.43	Arsenic	7440-38-2	NA	5.6	(1)
P012	Arsenic trioxide	Table CCW in 268.43	Arsenic	7440-38-2	NA	5.6	(1)
P013	Barium cyanide	Table CCW in 268.43	Barium	7440-39-3	NA	52	
P036	Dichlorophenylarsine	Table CCW in 268.43	Arsenic	7440-38-2	NA	5.6	(1)

P038	Diethylarsine	Table CCW in 268.43	Arsenic	7440-38-2	NA	5.6	(1)
P065 (Low Mercury Subcategory- Less than 260 mg/kg Mercury - residues from RMERC).	Mercury fulminate	Table 2 in 268.42 and Table CCW in 268.43	Mercury	7439-97-6	NA	0.20	
P065 (Low Mercury Subcategory- Less than 260 mg/kg Mercury-incinerator residues (and are not residues from RMERC)).	Mercury fulminate	Table 2 in 268.42 and Table CCW in 268.43	Mercury	7439-97-6	NA	0.025	
P073	Nickel carbonyl	Table CCW in 268.43	Nickel	7440-02-0	NA	0.32	
P074	Nickel cyanide	Table CCW in 268.43	Nickel	7440-02-0	NA	0.32	
P092 (Low Mercury Subcategory- Less than 260 mg/kg Mercury-residues from RMERC).	Phenyl mercury acetate	Table 2 in 268.42 and Table CCW in 268.43	Mercury	7439-97-6	NA	0.20	
P092 (Low Mercury Subcategory- Less than 260 mg/kg Mercury-incinerator residues	Phenyl mercury acetate	Table 2 in 268.42 and Table CCW in 268.43	Mercury	7439-97-6	NA	0.025	

(and are not residues from RMERC)).							
P099	Potassium silver cyanide	Table CCW in 268.43	Silver	7440-22-4	NA	0.072	
P103	Selenourea	Table CCW in 268.43	Selenium	7782-49-2	NA	5.7	
P104	Silver cyanide	Table CCW in 268.43	Silver	7440-22-4	NA	0.072	
P110	Tetraethyl lead	Table CCW in 268.43	Lead	7439-92-1	NA	0.51	
P114	Thallium selenite	Table CCW in 268.43	Selenium	7782-49-2	NA	5.7	
U032	Calcium chromate	Table CCW in 268.43	Chromium (Total)	7440 47 32	NA	0.094	
U051	Creosote	Table CCW in 268.43	Lead	7439-92-1	NA	0.51	
U136	Cacodylic acid	Table CCW in 268.43	Arsenic	7440-38-2	NA	5.6	(1)
U144	Lead acetate	Table CCW in 268.43	Lead	7439-92-1	NA	0.51	
U145	Lead phosphate	Table CCW in 268.43	Lead	7439-92-1	NA	0.51	
U146	Lead subacetate	Table CCW in 268.43	Lead	7439-92-1	NA	0.51	
U151 (low Mercury Subcategory- Less than 260 mg/kg Mercury residues from RMERC).	Mercury	Table CCW in 268.43 and Table 2 in 268.42	Mercury	7439-97-6	NA	0.20	
U151 (Low Mercury Subcategory- Less than 260 mg/kg Mercury- that are not residues from RMERC.	Mercury	Table CCW in 268.43 and Table 2 in 268.42	Mercury	7439-97-6	NA	0.025	
U204	Selenium dioxide	Table CCW in 268.43	Selenium	7782-49-2	NA	5.7	
U205	Selenium sulfide	Table CCW in 268.43	Selenium	7782-49-2	NA	5.7	

FOOTNOTE: [1]These treatment standards have been based on EP Leachate analysis but this does not preclude the use of TCLP analysis.

FOOTNOTE: [2]These waste codes are not subcategorized into wastewaters and nonwastewaters.

Note: NA means Not Applicable.

(b) When wastes with differing treatment standards for a constituent of concern are combined for purposes of treatment, the treatment residue must meet the lowest treatment standard for the constituent of concern.

[51 FR 40642, Nov. 7, 1986; 52 FR 21017, June 4, 1987, as amended at 55 FR 22689, June 1, 1990; 56 FR 3879, Jan. 31, 1991]

§ 268.42 Treatment standards expressed as specified technologies.

(a) The following wastes in paragraphs (a)(1) and (a)(2) of this section and in Table 2 and Table 3 of this section must be treated using the technology or technologies specified in paragraphs (a)(1) and (a)(2) and Table 1 of this section.

(1) Liquid hazardous wastes containing polychlorinated biphenyls (PCBs) at concentrations greater than or equal to 50 ppm but less than 500 ppm must be incinerated in accordance with the technical requirements of 40 CFR 761.70 or burned in high efficiency boilers in accordance with the technical requirements of 40 CFR 761.60. Liquid hazardous wastes containing polychlorinated biphenyls (PCBs) at concentrations greater than or equal to 500 ppm must be incinerated in accordance with the technical requirements of 40 CFR 761.70. Thermal treatment under this section must also be in compliance with applicable regulations in parts 264, 265, and 266.

(2) Nonliquid hazardous wastes containing halogenated organic compounds (HOCs) in total concentration greater than or equal to 1,000 mg/kg and liquid HOC-containing wastes that are prohibited under § 268.32(e)(1) of this part must be incinerated in accordance with the requirements of 40 CFR part 264, subpart O, or 40 CFR part 265, subpart O. These treatment standards do not apply where the waste is subject to a part 268, subpart D, treatment standard for specific HOC (such as a hazardous waste chlorinated solvent for which a treatment standard is established under § 268.41(a)).

(3) A mixture consisting of wastewater, the discharge of which is subject to regulation under either section 402 or section 307(b) of the Clean Water Act, and de minimis losses of materials from manufacturing operations in which these materials are used as raw materials or are produced as products in the manufacturing process, and that meet the criteria of the D001 ignitable liquids containing greater than 10% total organic constituents (TOC) subcategory, is subject to the DEACT treatment standard described in Table 1 of this section. For purposes of this paragraph, de minimis losses include those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves or other devices used to transfer materials); minor leaks from process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings; and relief device discharges.

Table 1.-Technology Codes and Description of Technology-Based Standards

Technology code	Description of technology-based standards
ADGAS:	Venting of compressed gases into an absorbing or reacting media (i.e., solid or liquid)-venting can be accomplished through physical release utilizing valves/piping; physical penetration of the container; and/or penetration through detonation.
AMLGM:	Amalgamation of liquid, elemental mercury contaminated with radioactive materials utilizing inorganic reagents such as copper, zinc, nickel, gold, and sulfur that result in a nonliquid, semi-solid amalgam and thereby reducing potential emissions of elemental mercury vapors to the air.
BIODG:	Biodegradation of organics or non-metallic inorganics (i.e., degradable inorganics that contain the elements of phosphorus, nitrogen, and sulfur) in units operated under either aerobic or anaerobic conditions such that a surrogate compound or indicator parameter has been substantially reduced in concentration in the residuals (e.g., Total Organic Carbon can often be used as an indicator parameter for the biodegradation of many organic constituents that cannot be directly analyzed in wastewater residues).

CARBN: Carbon adsorption (granulated or powdered) of non-metallic inorganics, organo-metallics, and/or organic constituents, operated such that a surrogate compound or indicator parameter has not undergone breakthrough (e.g., Total Organic Carbon can often be used as an indicator parameter for the adsorption of many organic constituents that cannot be directly analyzed in wastewater residues). Breakthrough occurs when the carbon has become saturated with the constituent (or indicator parameter) and substantial change in adsorption rate associated with that constituent occurs.

CHOXD: Chemical or electrolytic oxidation utilizing the following oxidation reagents (or waste reagents) or combinations of reagents: (1) Hypochlorite (e.g. bleach); (2) chlorine; (3) chlorine dioxide; (4) ozone or UV (ultraviolet light) assisted ozone; (5) peroxides; (6) persulfates; (7) perchlorates; (8) permangantes; and/or (9) other oxidizing reagents of equivalent efficiency, performed in units operated such that a surrogate compound or indicator parameter has been substantially reduced in concentration in the residuals (e.g., Total Organic Carbon can often be used as an indicator parameter for the oxidation of many organic constituents that cannot be directly analyzed in wastewater residues). Chemical oxidation specifically includes what is commonly referred to as alkaline chlorination.

CHRED: Chemical reduction utilizing the following reducing reagents (or waste reagents) or combinations of reagents: (1) Sulfur dioxide; (2) sodium, potassium, or alkali salts or sulfites, bisulfites, metabisulfites, and polyethylene glycols (e.g., NaPEG and KPEG); (3) sodium hydrosulfide; (4) ferrous salts; and/or (5) other reducing reagents of equivalent efficiency, performed in units operated such that a surrogate compound or indicator parameter has been substantially reduced in concentration in the residuals (e.g., Total Organic Halogens can often be used as an indicator parameter for the reduction of many halogenated organic constituents that cannot be directly analyzed in wastewater residues). Chemical reduction is commonly used for the reduction of hexavalent chromium to the trivalent state.

DEACT: Deactivation to remove the hazardous characteristics of a waste due to is ignitability, corrosivity, and/or reactivity.

FSUBS: Fuel substitution in units operated in accordance with applicable technical operating requirements.

HLVIT: Vitrification of high level mixed radioactive wastes in units in compliance with all applicable radioactive protection requirements under control of the Nuclear Regulatory Commission.

IMERC: Incineration of wastes containing organics and mercury in units operated in accordance with the technical operating requirements of 40 CFR part 264 subpart O and part 265 subpart O. All wastewater and nonwastewater residues derived from this process must then comply with the corresponding treatment standards per waste code with consideration of any applicable subcategories (e.g., High or Low Mercury Subcategories).

INCIN: Incineration in units operated in accordance with the technical operating requirements of 40 CFR part 264 subpart O and part 265 subpart O.

LLEXT: Liquid-liquid extraction (often referred to as solvent extraction) of organics from liquid wastes into an immiscible solvent for which the hazardous constituents have a greater solvent affinity, resulting in an extract high in organics that must undergo either incineration, reuse as a fuel, or other recovery/reuse and a raffinate (extracted liquid waste)

	proportionately low in organics that must undergo further treatment as specified in the standard.
MACRO:	Macroencapsulation with surface coating materials such as polymeric organics (e.g. resins and plastics) or with a jacket of inert inorganic materials to substantially reduce surface exposure to potential leaching media. Macroencapsulation specifically does not include any material that would be classified as a tank or container according to 40 CFR 260.10.
NEUTR:	Neutralization with the following reagents (or waste reagents) or combinations of reagents: (1) Acids; (2) bases; or (3) water (including wastewaters) resulting in a pH greater than 2 but less than 12.5 as measured in the aqueous residuals.
NLDBR:	No land disposal based on recycling.
PRECP:	Chemical precipitation of metals and other inorganics as insoluble precipitates of oxides, hydroxides, carbonates, sulfides, sulfates, chlorides, flourides, or phosphates. The following reagents (or waste reagents) are typically used alone or in combination: (1) Lime (i.e., containing oxides and/or hydroxides of calcium and/or magnesium; (2) caustic (i.e., sodium and/or potassium hydroxides; (3) soda ash (i.e., sodium carbonate); (4) sodium sulfide; (5) ferric sulfate or ferric chloride; (6) alum; or (7) sodium sulfate. Additional floculating, coagulation or similar reagents/processes that enhance sludge dewatering characteristics are not precluded from use.
RBERY:	Thermal recovery of Beryllium.
RCGAS:	Recovery/reuse of compressed gases including techniques such as reprocessing of the gases for reuse/resale; filtering/adsorption of impurities; remixing for direct reuse or resale; and use of the gas as a fuel source.
RCORR:	Recovery of acids or bases utilizing one or more of the following recovery technologies: (1) Distillation (i.e., thermal concentration); (2) ion exchange; (3) resin or solid adsorption; (4) reverse osmosis; and/or (5) incineration for the recovery of acid-Note: this does not preclude the use of other physical phase separation or concentration techniques such as decantation, filtration (including ultrafiltration), and centrifugation, when used in conjunction with the above listed recovery technologies.
RLEAD:	Thermal recovery of lead in secondary lead smelters.
RMERC:	Retorting or roasting in a thermal processing unit capable of volatilizing mercury and subsequently condensing the volatilized mercury for recovery. The retorting or roasting unit (or facility) must be subject to one or more of the following: (a) a National Emissions Standard for Hazardous Air Pollutants (NESHAP) for mercury; (b) a Best Available Control Technology (BACT) or a Lowest Achievable Emission Rate (LAER) standard for mercury imposed pursuant to a Prevention of Significant Deterioration (PSD) permit; or (c) a state permit that establishes emission limitations (within meaning of section 302 of the Clean Air Act) for mercury. All wastewater and nonwastewater residues derived from this process must then comply with the corresponding treatment standards per waste code with consideration of any applicable subcategories (e.g., High or Low Mercury Subcategories).
RMETL:	Recovery of metals or inorganics utilizing one or more of the following direct physical/removal technologies: (1) Ion exchange; (2) resin or solid (i.e., zeolites) adsorption; (3) reverse

	osmosis; (4) chelation/solvent extraction; (5) freeze crystalization; (6) ultrafiltration and/or (7) simple precipitation (i.e., crystalization) - Note: This does not preclude the use of other physical phase separation or concentration techniques such as decantation, filtration (including ultrafiltration), and centrifugation, when used in conjunction with the above listed recovery technologies.
RORGS:	Recovery of organics utilizing one or more of the following technologies: (1) Distillation; (2) thin film evaporation; (3) steam stripping; (4) carbon adsorption; (5) critical fluid extraction; (6) liquid-liquid extraction; (7) precipitation/crystalization (including freeze crystallization); or (8) chemical phase separation techniques (i.e., addition of acids, bases, demulsifiers, or similar chemicals); - Note: this does not preclude the use of other physical phase separation techniques such as a decantation, filtration (including ultrafiltration), and centrifugation, when used in conjunction with the above listed recovery technologies.
RTHRM:	Thermal recovery of metals or inorganics from nonwastewaters in units identified as industrial furnaces according to 40 CFR 260.10 (1), (6), (7), (11), and (12) under the definition of ``industrial furnaces''.
RZINC:	Resmelting in high temperature metal recovery units for the purpose of recovery of zinc.
STABL:	Stabilization with the following reagents (or waste reagents) or combinations of reagents: (1) Portland cement; or (2) lime/pozzolans (e.g., fly ash and cement kiln dust) - this does not preclude the addition of reagents (e.g., iron salts, silicates, and clays) designed to enhance the set/cure time and/or compressive strength, or to overall reduce the leachability of the metal or inorganic.
SSTRP:	Steam stripping of organics from liquid wastes utilizing direct application of steam to the wastes operated such that liquid and vapor flow rates, as well as, temperature and pressure ranges have been optimized, monitored, and maintained. These operating parameters are dependent upon the design parameters of the unit such as, the number of separation stages and the internal column design. Thus, resulting in a condensed extract high in organics that must undergo either incineration, reuse as a fuel, or other recovery/reuse and an extracted wastewater that must undergo further treatment as specified in the standard.
WETOX:	Wet air oxidation performed in units operated such that a surrogate compound or indicator parameter has been substantially reduced in concentration in the residuals (e.g., Total Organic Carbon can often be used as an indicator parameter for the oxidation of many organic constituents that cannot be directly analyzed in wastewater residues).
WTRRX:	Controlled reaction with water for highly reactive inorganic or organic chemicals with precautionary controls for protection of workers from potential violent reactions as well as precautionary controls for potential emissions of toxic/ignitable levels of gases released during the reaction.

Note 1: When a combination of these technologies (i.e., a treatment train) is specified as a single treatment standard, the order of application is specified in § 268.42, Table 2 by indicating the five letter technology code that must be applied first, then the designation "fb." (an abbreviation for "followed by"), then the five letter technology code for the technology that must be applied next, and so on.

Note 2: When more than one technology (or treatment train) are specified as alternative treatment standards, the five letter technology codes (or the treatment trains) are separated by a semicolon (;) with the last technology preceded by the word "OR". This indicates that any one of these BDAT technologies or treatment trains can be used for compliance with the standard.

268.42 Table 2.-Technology-Based Standards by RCRA Waste Code

Waste code	See also	Waste descriptions and/or treatment subcategory	CAS No. for regulated hazardous constituents	Technology code	
				Wastewaters	Nonwastewaters
D001	NA	Ignitable Liquids based on 261.21(a)(1)-Wastewaters.	NA	DEACT	NA
D001	NA	Ignitable Liquids based on 261.21(a)(1)-Low TOC Ingitable Liquids Subcategory-Less than 10% total organic carbon.	NA	NA	DEACT
D001	NA	Ignitable Liquids based on 261.21(a)(1)-High TOC Ingitable Liquids Subcategory-Greater than or equal to 10% total organic carbon.	NA	NA	FSUBS; RORGS; or INCIN
D001	NA	Ignitable compressed gases based on 261.21(a)(3).	NA	NA	DEACT[2]
D001	NA	Ignitable reactives based on 261.21(a)(2).	NA	NA	DEACT
D001	NA	Oxidizers based on 261.21(a)(4).	NA	DEACT	DEACT
D002	NA	Acid subcategory based on 261.22(a)(1).	NA	DEACT	DEACT
D002	NA	Alkaline subcategory based on 261.22(a)(1).	NA	DEACT	DEACT
D002	NA	Other corrosives based on 261.22(a)(2).	NA	DEACT	DEACT
D003	NA	Reactive sulfides based on 261.23(a)(5).	NA	DEACT (may not be diluted)	DEACT (may not be diluted)
D003	NA	Explosives based on 261.23(a)(6),(7), and (8).	NA	DEACT	DEACT
D003	NA	Water reactives based on 261.23(a)(2), (3), and (4).	NA	NA	DEACT
D003	NA	Other reactives based on 261.23(a)(1).	NA	DEACT	DEACT
D006	NA	Cadmium containing batteries.	7440-43-9	NA	RTHRM
D008	NA	Lead acid batteries (Note: This standard only applies to lead acid batteries that are	7439-92-1	NA	RLEAD

		identified as RCRA hazardous wastes and that are not excluded elsewhere from regulation under the land disposal restrictions of 40 CFR 268 or exempted under other EPA regulations (see 40 CFR 266.80.).			
D009	Table CCWE in 268.41 and Table CCW in 268.43	Mercury: (High Mercury Subcategory-greater than or equal to 260 mg/kg total Mercury-contains mercury and organics (and are not incinerator residues)).	7439-97-6	NA	IMERC; or RMERC
D009	Table CCWE in 268.41 and Table CCW in 268.43	Mercury: (High Mercury Subcategory-greater than or equal to 260 mg/kg total Mercury-inorganics (including incinerator residues and residues from RMERC)).	7439-97-6	NA	RMERC
D012	Table CCW in 268.43	Endrin.	72-20-8	BIODG; or INCIN	NA
D013	Table CCW in 268.43	Lindane.	58-89-9	CARBN; or INCIN	NA
D014	Table CCW in 268.43	Methoxychlor.	72-43-5	WETOX; or INCIN	NA
D015	Table CCW in 268.43	Toxaphene.	8001-35-1	BIODG; or INCIN	NA
D016	Table CCW in 268.43	2,4-D.	94-75-7	CHOXD; BIODG; or INCIN	NA
D017	Table CCW in 268.43	2,4,5-TP.	93-72-1	CHOXD; or INCIN	NA
F005	Table CCWE in 268.41 and Table CCW in 268.43	2-Nitropropane.	79-46-9	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
F005	Table CCWE in 268.41 and Table CCW in 268.43	2-Ethoxyethanol.	110-80-5	BIODG; or INCIN	INCIN
F024	Table CCWE in 268.41 and Table CCW in 268.43		NA	INCIN	INCIN
K025	NA	Distillation bottoms from the production of nitrobenzene by the nitration of benzene.	NA	LLEXT fb SSTRP fb CARBN; or INCIN	INCIN
K026	NA	Stripping still tails from the production of methyl ethyl pyridines.	NA	INCIN	INCIN

K027	NA	Centrifuge and distillation residues from toluene diisocyanate production.	NA	CARBN; or INCIN	FSUBS; or INCIN
K039	NA	Filter cake from the filtration of diethylphosphorodithioic acid in the production of phorate.	NA	CARBN; or INCIN	FSUBS; or INCIN
K044	NA	Wastewater treatment sludges from the manufacturing and processing of explosives.	NA	DEACT	DEACT
K045	NA	Spent carbon from the treatment of wastewater containing explosives.	NA	DEACT	DEACT
K047	NA	Pink/red water from TNT operations.	NA	DEACT	DEACT
K069	Table CCWE in 268.41 and Table CCW in 268.43	Emission control dust/sludge from secondary lead smelting: Non-Calcium Sulfate Subcategory.	NA	NA	RLEAD
K106	Table CCWE in 268.41 and Table CCW in 268.43	Wastewater treatment sludge from the mercury cell process in chlorine production: (High Mercury Subcategory-greater than or equal to 260 mg/kg total mercury).	NA	NA	RMERC
K113	NA	Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.	NA	CARBN; or INCIN	FSUBS; or INCIN
K114	NA	Vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.	NA	CARBN; or INCIN	FSUBS; or INCIN
K115	NA	Heavy ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotolueme.	NA	CARBN; or INCIN	FSUBS; or INCIN
K116	NA	Organic condensate from the solvent recovery column in the production of toluene diisocyanate via phosgenation of toluenediamine.	NA	CARBN; or INCIN	FSUBS; or INCIN
P001	NA	Warfarin (>0.3%).	81-81-2	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
P002	NA	1-Acetyl-2-thiourea.	591-08-2	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN

P003	Table CCW in 268.43	Acrolein.	107-02-8	NA	FSUBS; or INCIN
P005	NA	Allyl alcohol.	107-18-6	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
P006	NA	Aluminum phosphide.	20859-73-8	CHOXD; CHRED; or INCIN	CHOXD; CHRED; or INCIN
P007	NA	5-Aminoethyl 3-isoxazolol.	2763-96-4	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P008	NA	4-Aminopyridine.	504-24-5	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P009	NA	Ammonium picrate.	131-74-8	CHOXD; CHRED, CARBN; BIODG; or INCIN	FSUBS; CHOXD; CHRED; or INCIN
P014	NA	Thiophenol (Benzene thiol).	108-98-5	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P015	NA	Beryllium dust.	7440-41-7	RMETL; or RTHRM	RMETL; or RTHRM
P016	NA	Bis(chloromethyl) ether.	542-88-1	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P017	NA	Bromoacetone.	598-31-2	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P018	NA	Brucine.	357-57-3	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P022	Table CCW in 268.43	Carbon disulfide.	75-15-0	NA	INCIN
P023	NA	Chloroacetaldehyde.	107-20-0	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P026	NA	1-(o-Chlorophenyl) thiourea.	5344-82-1	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P027	NA	3-Chloropropionitrile.	542-76-7	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P028	NA	Benzyl chloride.	100-44-7	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P031	NA	Cyanogen.	460-19-5	CHOXD; WETOX or INCIN	CHOXD; WETOX; or INCIN
P033	NA	Cyanogen chloride.	506-77-4	CHOXD; WETOX or INCIN	CHOXD; WETOX; or INCIN
P034	NA	2-Cyclohexyl-4,6-dinitrophenol .	131-89-5	(WETOX or CHOXD) fb CARBN; or	INCIN

				INCIN	
P040	NA	O,O-Diethyl O-pyrazinyl phosphorothioate.	297-97-2	CARBN; or INCIN	FSUBS; or INCIN
P041	NA	Diethyl-p-nitrophenyl phosphate.	311-45-5	CARBN; or INCIN	FSUBS; or INCIN
P042	NA	Epinephrine.	51-43-4	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P043	NA	Diisopropyl fluorophosphate (DFP).	55-91-4	CARBN; or INCIN	FSUBS; or INCIN
P044	NA	Dimethoate.	60-51-5	CARBN; or INCIN	FSUBS or INCIN
P045	NA	Thiofanox.	39196-18-4	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P046	NA	alpha,alpha-Dimethylphenethyl-amine.	122-09-8	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P047	NA	4,6-Dinitro-o-cresol salts.	534-52-1	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P049	NA	2,4-Dithiobiuret.	541-53-7	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P054	NA	Aziridine.	151-56-4	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P056	Table CCW in 268.43	Fluorine.	7782-41-4	NA	ADAS fb NEUTR
P057	NA	Fluoroacetamide.	640-19-7	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P058	NA	Fluoroacetic acid, sodium salt.	62-74-8	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P062	NA	Hexaethyltetraphosphate.	757-58-4	CARBN; or INCIN	FSUBS; or INCIN
P064	NA	Isocyanic acid, ethyl ester.	624-83-9	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P065	Table CCWE in 268.41 and Table CCW in 268.43	Mercury fulminate: (High Mercury Subcategory-greater than or equal to 260 mg/kg total Mercury-either incinerator residues or residues from RMERC).	628-86-4	NA	RMERC
P065	Table CCWE in 268.41 and Table CCW in 268.43	Mercury fulminate: (All Nonwastewasters that are not incinerator residues or are not residues from RMERC; regardless of Mercury Content).	628-86-4	NA	IMERC

P066	NA	Methomyl.	16752-77-5	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P067	NA	2-Methylaziridine.	75-55-8	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P068	NA	Methyl hydrazine.	60-34-4	CHOXD; CHRED; CARBN; BIODG; or INCIN	FSUBS; CHOXD; CHRED; or INCIN
P069	NA	Methyllactonitrile.	75-86-5	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P070	NA	Aldicarb.	116-06-3	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P072	NA	1-Naphthyl-2-thiourea.	86-88-4	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P075	NA	Nicotine and salts.	[1]54-11-5	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P076	NA	Nitric oxide.	10102-43-9	ADGAS	ADGAS
P078	NA	Nitrogen dioxide.	10102-44-0	ADGAS	ADGAS
P081	NA	Nitroglycerin.	55-63-0	CHOXD; CHRED; CARBN; BIODG; or INCIN	FSUBS; CHOXD; CHRED; or INCIN
P082	Table CCW in 268.43	N-Nitrosodimethylamine.	62-75-9	NA	INCIN
P084	NA	N-Nitrosomethylvinylamine.	4549-40-0	(WETOX or CHOXD) fb CARBN; OR INCIN	INCIN
P085	NA	Octamethylpyrophosphoramide.	152-16-9	CARBN; or INCIN	FSUBS; or INCIN
P087	NA	Osmium tetroxide.	20816-12-0	RMETL; or RTHRM	RMETL; or RTHRM
P088	NA	Endothall.	145-73-3	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
P092	Table CCWE in 268.41 and Table CCW in 268.43	Phenyl mercury acetate: (High Mercury Subcategory-greater than or equal to 260 mg/kg total Mercury-either incinerator residues or residues from RMERC).	62-38-4	NA	RMERC
P092	Table CCWE in 268.41 and Table CCW in 268.43	Phenyl mercury acetate: (All nonwastewaters that are not incinerator residues and are not residues from RMERC: regardless of Mercury Content).	62-38-4	NA	IMERC; or RMERC
P093	NA	N-Phenylthiouea.	103-85-5	(WETOX or CHOXD)	INCIN

				fb CARBN; or INCIN	
P095	NA	Phosgene.	75-44-5	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P096	NA	Phosphine.	7803-51-2	CHOXD; CHRED; or INCIN	CHOXD; CHRED; or INCIN
P102	NA	Propargyl alcohol.	107-19-7	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
P105	NA	Sodium azide.	26628-22-8	CHOXD; CHRED; CARBN; BIODG; or INCIN	FSUBS, CHOXD; CHRED; or INCIN
P108	NA	Strychnine and salts.	[1]57-24-9	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P109	NA	Tetraethyldithiopyrophosphate.	3689-24-5	CARBN; or INCIN	FSUBS; or INCIN
P112	NA	Tetranitromethane.	509-14-8	CHOXD; CHRED; CARBN; BIODG; or INCIN	FSUBS, CHOXD; CHRED; or INCIN
P113	Table CCW in 268.43	Thallic oxide.	1314-32-5	NA	RTHRM; or STABL
P115	Table CCW in 268.43	Thallium (1) sulfate.	7446-18-6	NA	RTHRM; or STABL
P116	NA	Thiosemicarbazide.	79-19-6	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P118	NA	Thrichloromethanethiol.	75-70-7	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
P119	Table CCW in 268.43	Ammonium vanadate.	7803-55-6	NA	STABL
P120	Table CCW in 268.43	Vanadium pentoxide.	1314-62-1	NA	STABL
P122	NA	Zinc Phosphide (>10%).	1314-84-7	CHOXD; CHRED; or INCIN	CHOXD; CHRED; or INCIN
U001	NA	Acetaldehyde.	75-07-0	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U003	Table CCW in 268.43	Acetonitrile.	75-05-8	NA	INCIN
U006	NA	Acetyl Chloride.	75-36-5	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U007	NA	Acrylamide.	79-06-1	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U008	NA	Acrylic acid.	79-10-7	(WETOX or CHOXD)	FSUBS; or INCIN

				fb CARBN; or INCIN	
U010	NA	Mitomycin C.	50-07-7	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U011	NA	Amitrole.	61-82-5	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U014	NA	Auramine.	492-80-8	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U015	NA	Azaserine.	115-02-6	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U016	NA	Benz(c)acridine.	225-51-4	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
U017	NA	Benzal chloride.	98-87-3	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U020	NA	Benzenesulfonyl chloride.	98-09-9	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U021	NA	Benzidine.	92-87-5	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U023	NA	Benzotrichloride.	98-07-7	CHOXD; CHRED; CARBN; BIODG; or INCIN	FSUBS; CHOXD; CHRED; or INCIN
U026	NA	Chlornaphazin.	494-03-1	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U033	NA	Carbony. fluoride.	353-50-4	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U034	NA	Trichloroacetaldehyce (Chlora...	75-87-6	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U035	NA	Chlorambucil.	305-03-3	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U038	Table CCW in 268.43	Chlorobenzilate.	510-15-6	NA	INCIN
U041	NA	1-Chloro-2,3-epoxypropane (Epichloronydrin).	106-89-8	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U042	Table CCW in 268.43	2-Chloroethyl vinyl ether.	110-75-8	NA	INCIN
U046	NA	Chloromethyl methyl ether.	107-30-2	(WETOX or CHOXD)	INCIN

				fb CARBN; or INCIN	
U049	NA	4-Chloro-o-toluidine hydrochloride.	3165-93-3	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U053	NA	Crotonaldehyde.	4170-30-3	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
U055	NA	Cumene.	98-82-8	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
U056	NA	Cyclohexane.	110-82-7	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
U057	Table CCW in 268.43	Cyclohexanone.	108-94-1	NA	FSUBS; or INCIN
U058	NA	Cyclophosphamide.	50-18-0	CARBN; or INCIN	FSUBS; or INCIN
U059	NA	Daunomycin.	20830-81-3	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U062	NA	Diallate.	2303-16-4	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U064	NA	1,2,7,8-Dibenzopyrene.	189-55-9	(WETOX or CHOXD) fb CARBN or INCIN	FSUBS; or INCIN
U073	NA	3,3'-Dichlorobenzidine.	91-94-1	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U074	NA	cis-1,4-Dichloro-2-butylene trans-1,4-Dichloro-2-butylene.	1476-11-5	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U085	NA	1,2:3,4-Diepoxybutane.	1464-53-5	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
U086	NA	N,N-Diethylhydrazine.	1615--80-1	CHOXD; CHRED; CARBN; BIODG; or INCIN	FSUBS; CHOXD; CHRED; or INCIN
U087	NA	O,O-Diethyl S-methyldithiophosphate.	3288-58-2	CARBN; or INCIN	FSUBS; or INCIN
U089	NA	Diethyl stilbestrol.	56-53-1	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
U090	NA	Dihydrosafrole.	94-58-6	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
U091	NA	3,3'-Dimethoxybenzidine.	119-90-4	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U092	NA	Dimethylamine.	124-40-3	(WETOX or CHOXD)	INCIN

				fb CARBN; or INCIN	
U093	Table CCW in 268.43	p-Dimethylaminoazobenzene.	621-90-9	NA	INCIN
U094	NA	7,12-Dimethyl benz(a)anthracene.	57-97-6	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
U095	NA	3,3'-Dimethylbenzidine.	119-93-7	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U096	NA	a,a-Dimethyl benzyl hydroperoxide.	80-15-9	CHOXD; CHRED; CARBN; BIODG; or INCIN	FSUBS; CHOXD; CHRED; or INCIN
U097	NA	Dimethylcarbomyl chloride.	79-44-7	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U098	NA	1,1-Dimethylhydrazine.	57-14-7	CHOXD; CHRED; CARBN; BIODG; or INCIN	FSUBS; CHOXD; CHRED; or INCIN
U099	NA	1,2-Dimethylhydrazine.	540-73-8	CHOXD; CHRED; CARBN; BIODG; or INCIN	FSUBS; CHOXD; CHRED; or INCIN
U103	NA	Dimethyl sulfate.	77-78-1	CHOXD; CHRED; CARBN; BIODG; or INCIN	FSUBS; CHOXD; CHRED; or INCIN
U109	NA	1,2-Diphenylhydrazine.	122-66-7	CHOXD; CHRED; CARBN; BIODG; or INCIN	FSUBS; CHOXD; CHRED; or INCIN
U110	NA	Dipropylamine.	142-84-7	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U113	NA	Ethyl acrylate.	140-88-5	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
U114	NA	Ethylene bis-dithiocarbamic acid.	111-54-6	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U115	NA	Ethylene oxide.	75-21-8	(WETOX or CHOXD) fb CARBN; or INCIN	CHOXD; or INCIN
U116	NA	Ethylene thiourea.	96-45-7	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U119	NA	Ethyl methane sulfonate.	62-50-0	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U122	NA	Formaldehyde.	50-00-0	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
U123	NA	Formic acid.	64-18-6	(WETOX or CHOXD)	FSUBS; or INCIN

				fb CARBN; or INCIN	
U124	NA	Furan.	110-00-9	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
U125	NA	Furfural.	98-01-1	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
U126	NA	Glycidaldehyde.	765-34-4	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
U132	NA	Hexachlorophenene.	70-30-4	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U133	NA	Hydrazine.	302-01-2	CHOXD; CHRED; CARBN; BIODG; or INCIN	FSUBS; CHOXD; CHRED; or INCIN
U134	Table CCW in 268.43	Hydrogen Flouride.	7664-39-3	NA	ADGAS fb NEUTR; or NEUTR
U135	NA	Hydrogen Sulfide.	7783-06-4	CHOXD; CHRED; or INCIN	CHOXD; CHRED; or INCIN
U143	NA	Lasiocarpine.	303-34-4	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U147	NA	Maleic anhydride.	108-31-6	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
U148	NA	Maleic hydrazide.	123-33-1	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U149	NA	Malononitrile.	109-77-3	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U150	NA	Melphalan.	148-82-3	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U151	Table CCWE in 268.41 and Table CCW in 268.43	Mercury: (High Mercury Subcategory-greater than or equal to 260 mg/kg total Mercury).	7439-97-6	NA	RMERC
U153	NA	Methane thiol.	74-93-1	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U154	Table CCW in 268.43	Methanol.	67-56-1	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
U156	NA	Methyl chorocarbonate.	79-22-1	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN

U160	NA	Methyl ethyl ketone peroxide.	1338-23-4	CHOXD; CHRED; CARBN; BIODG; or INCIN	FSUBS; CHOXD; CHRED; or INCIN
U163	NA	N-Methyl N'-nitro N-Nitrosoguanidine.	70-25-7	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U164	NA	Methylthiouracil.	56-04-2	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U166	NA	1,4-Naphthoquinone.	130-15-4	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
U167	NA	1-Naphthylamine.	134-32-7	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U168	Table CCW in 268.43	2-Naphthlyamine.	91-59-8	NA	INCIN
U171	NA	2-Nitropropane.	79-46-9	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U173	NA	N-Nitroso-di-n-ethanolamine.	1116-54-7	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U176	NA	N-Nitroso-N-ethylurea.	759-73-9	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U177	NA	N-Nitroso-N-methylurea.	684-93-5	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U178	NA	N-Nitroso-N-methylurethane.	615-53-2	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U182	NA	Paraldehyde.	123-63-7	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
U184	NA	Pentachloroethane.	76-01-7	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U186	NA	1,3-Pentadiene.	504-60-9	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
U189	NA	Phosphorus sulfide.	1314-80-3	CHOXD; CHRED; or INCIN	CHOXD; CHRED; or INCIN
U191	NA	2-Picoline.	109-06-8	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U193	NA	1,3-Propane sultone.	1120-71-4	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN

U194	NA	n-Propylamine.	107-10-8	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U197	NA	p-Benzoquinone.	106-51-4	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
U200	NA	Reserpine.	50-55-5	(WETOX or CHOXD) fb CARBN orINCIN	INCIN
U201	NA	Resorcinol.	108-46-3	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS: or INCIN
U202	NA	Saccharin and salts.	[1]81-07-2	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U206	NA	Streptozatocin.	18883-66-4	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U213	NA	Tetrahydrofuran.	109-99-9	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
U214	Table CCW in 268.43	Thallium (I) acetate.	563-68-8	NA	RTHRM; or STABL
U215	Table CCW in 268.43	Thallium (I) carbonate.	6533-73-9	NA	RTHRM; or STABL
U216	Table CCW in 268.43	Thallium (I) chloride.	7791-12-0	NA	RTHRM; or STABL
U217	Table CCW in 268.43	Thallium (I) nitrate.	10102-45-1	NA	RTHRM; or STABL
U218	NA	Thioacetamide.	62-55-5	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U219	NA	Thiourea.	62-56-6	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U221	NA	Toluenediamine.	25376-45-8	CARBN; or INCIN	FSUBS; or INCIN
U222	NA	o-Toluidine hydrochloride.	636-21-5	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U223	NA	Toluene diisocyanate.	26471-62-5	CARBN; or INCIN	FSUBS; or INCIN
U234	NA	sym-Trinitrobenzene.	99-35-4	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U236	NA	Trypan Blue.	72-57-1	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U237	NA	Uracil mustard.	66-75-1	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN

U238	NA	Ethyl carbamate.	51-79-6	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U240	NA	2,4-Dichlorophenoxyacetic (salts and esters).	[1]94-75-7	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U244	NA	Thiram.	137-26-8	(WETOX or CHOXD) fb CARBN; or INCIN	INCIN
U246	NA	Cyanogen bromide.	506-68-3	CHOXD; WETOX; or INCIN	CHOXD; WETOX; or INCIN
U248	NA	Warfarin (.3% or less).	81-81-2	(WETOX or CHOXD) fb CARBN; or INCIN	FSUBS; or INCIN
U249	NA	Zinc Phosphide (<10%).	1314-84-7	CHOXD; CHRED; or INCIN	CHOXD; CHRED; or INCIN

FOOTNOTE: [1]CAS Number given for parent compound only.

FOOTNOTE: [2]This waste code exists in gaseous form and is not categorized as wastewater or nonwastewater forms.

Note: NA means Not Applicable.

268.42 Table 3.-Technology-Based Standards for Specific Radioactive Hazardous Mixed Waste

Waste code	Waste descriptions and/or treatment category	CAS No.	Technology Code	
			Wastewaters	Nonwastewaters
D002	Radioactive high level wastes generated during the reprocessing of fuel rods subcategory	NA	NA	HLVIT
D004	Radioactive high level wastes generated during the reprocessing of fuel rods subcategory	NA	NA	HLVIT
D005	Radioactive high level wastes generated during the reprocessing of fuel rods subcategory	NA	NA	HLVIT
D006	Radioactive high level wastes generated during the reprocessing of fuel rods subcategory	NA	NA	HLVIT
D007	Radioactive high level wastes generated during the reprocessing of fuel rods subcategory	NA	NA	HLVIT
D008	Radioactive lead solids subcategory (Note: these lead solids include, but are not limited to, all forms of lead shielding, and other elemental forms of lead. These lead solids do not include treatment residuals such as hydroxide sludges, other wastewater treatment residuals, or incinerator ashes that can undergo conventional pozzolanic stabilization, nor do they include organolead materials that can be incinerated and stabilized as ash).	7439-92-1	NA	MACRO
D008	Radioactive high level wastes generated during the reprocessing of fuel rods subcategory	NA	NA	HLVIT
D009	Elemental mercury contaminated with radioactive materials	7439-97-6	NA	AMLGM

D009	Hydraulic oil contaminated with mercury; radioactive materials subcategory	7439-97-6	NA	IMERC
D009	Radioactive high level wastes generated during the reprocessing of fuel rods subcategory	NA	NA	HLVIT
D010	Radioactive high level wastes generated during the reprocessing of fuel rods subcategory	NA	NA	HLVIT
D011	Radioactive high level wastes generated during the reprocessing of fuel rods subcategory	NA	NA	HLVIT
U151	Mercury: Elemental mercury contaminated with radioactive materials	7439-97-6	NA	AMLGM

Note: NA means Not Applicable.

(b) Any person may submit an application to the Administrator demonstrating that an alternative treatment method can achieve a measure of performance equivalent to that achievable by methods specified in paragraphs (a), (c), and (d) of this section. The applicant must submit information demonstrating that his treatment method is in compliance with federal, state, and local requirements and is protective of human health and the environment. On the basis of such information and any other available information, the Administrator may approve the use of the alternative treatment method if he finds that the alternative treatment method provides a measure of performance equivalent to that achieved by methods specified in paragraphs (a), (c), and (d) of this section. Any approval must be stated in writing and may contain such provisions and conditions as the Administrator deems appropriate. The person to whom such approval is issued must comply with all limitations contained in such a determination.

(c) As an alternative to the otherwise applicable subpart D treatment standards, lab packs are eligible for land disposal provided the following requirements are met:

(1) The lab packs comply with the applicable provisions of 40 CFR 264.316 and 40 CFR 265.316;

(2) All hazardous wastes contained in such lab packs are specified in appendix IV or appendix V to part 268;

(3) The lab packs are incinerated in accordance with the requirements of 40 CFR part 264, subpart O or 40 CFR part 265, subpart O; and

(4) Any incinerator residues from lab packs containing D004, D005, D006, D007, D008, D010, and D011 are treated in compliance with the applicable treatment standards specified for such wastes in subpart D of this part.

(d) Radioactive hazardous mixed wastes with treatment standards specified in Table 3 of this section are not subject to any treatment standards specified in § 268.41, § 268.43, or Table 2 of this section. Radioactive hazardous mixed wastes not subject to treatment standards in Table 3 of this section remain subject to all applicable treatment standards specified in § 268.41, § 268.43, and Table 2 of this section.

[51 FR 40642, Nov. 7, 1986, as amended at 52 FR 25790, July 8, 1987; 55 FR 22692, June 1, 1990; 56 FR 3884, Jan. 31, 1991]

§ 268.43 Treatment standards expressed as waste concentrations.

(a) Table CCW identifies the restricted wastes and the concentrations of their associated hazardous constituents which may not be exceeded by the waste or treatment residual (not an extract of such waste or residual) for the allowable land disposal of such waste or residual. Compliance with these concentrations is required based upon grab samples, unless otherwise noted in the following Table CCW.
Note: Table CCW as contained in this file follows the text of the 1/31/91 Federal Register article (56 FR 3864) that amended this table, rather than the text in 40 CFR 1991. Printing errors in the 1991 CFR version of this table resulted in misalignment of the CAS number and concentration columns in relation to the chemical names. Certain minor typographical errors in the Federal Register version have also been corrected in this version; for details, see NOTE83 in the Federal Register File Library (56) on the SRPB-BBS.

268.43 Table CCW. Constituent Concentrations in Wastes

Waste code	Commercial chemical name	See also	Regulated hazardous constituent	CAS number for regulated hazardous constituent	Wastewaters		Nonwastewaters	
					Concentration (mg/l)	Notes	Concentration (mg/kg)	Notes
D003 (Reactive Cyanides Subcategory based on 261.23(a)(5)).	NA	NA	Cyanides (Total)	57-12-5	(4)		590	(3)
			Cyanides (Amenable)	57-12-5	0.86		30	
D004	NA	Table CCWE in 268.41	Arsenic	7440-38-2	5.0		NA	
D005	NA	Table CCWE in 268.41	Barium	7440-39-3	100		NA	
D006	NA	Table CCWE in 268.41	Cadmium	7440-43-9	1.0		NA	
D007	NA	Table CCWE in 268.41	Chromium (Total)	7440-47-32	5.0		NA	
D008	NA	Table CCWE in 268.41	Lead	7439 92-1	5.0		NA	
D009	NA	Table CCWE in 268.41	Mercury	7439 97-6	0.20		NA	
D010	NA	Table CCWE in 268.41	Selenium	7782-49-2	1.0		NA	
D011	NA	Table CCWE in 268.41	Silver	7440-22-4	5.0		NA	
D012	NA	Table 2 in 268.42	Endrin	720-20-8	NA		0.13	(1)
D013	NA	Table 2 in 268.42	Lindane	58-89 9	NA		0.066	(1)
D014	NA	Table 2 in 268.42	Methoxychlor	72-43 5	NA		0.18	(1)
D015	NA	Table 2 in 268.42	Toxaphene	8001-35-1	NA		1.3	(1)
D016	NA	Table 2 in 268.42	2,4-D	94-75-7	NA		10.0	(1)
D017	NA	Table 2 in 268.42	2,4,5-TP (Silvex)	93-76-5	NA		7.9	(1)
F001-F005 spent solvents.	NA	Table CCWE in 268.41 and Table 2 in 268.42	1,1,2-Trichloroethane	71-55-6	0.030		7.6	(1)
			Benzene	71-43-2	0.070		3.7	(1)
F001-F005 spent solvents (Pharmaceutical Industry-Wastewater	NA	NA	Methylene chloride	75-09-2	0.44		NA	

Sub category).								
F006	NA	Table CCWE in 268.41	Cyanides (Total)	57-12-5	1.2		590	
			Cyanides (Amenable)	57-12-5	0.86		30	
			Cadmium	7440-43-9	1.6		NA	
			Chromium	7440-47-32	0.32		NA	
			Lead	7439-92-1	0.040		NA	
			Nickel	7440-02-0	0.44		NA	
F007	NA	Table CCWE in 268.41	Cyanides (Total)	57-12-5	1.9		590	
			Cyanides (Amenable)	57-12-5	0.1		30	
			Chromium (Total)	7440-47-32	0.32		NA	
			Lead	7439-92-1	0.04		NA	
			Nickel	7440-02-0	0.44		NA	
F008	NA	Table CCWE in 268.41	Cyanides (Total)	57-12-5	1.9		590	
			Cyanides (Amenable)	57-12-5	0.1		30	
			Chromium	7440-47-32	0.32		NA	
			Lead	7439-92-1	0.04		NA	
			Nickel	7440-02-0	0.44		NA	
F009	NA	Table CCWE in 268.41	Cyanides (Total)	57-12-5	1.9		590	
			Cyanides (Amenable)	57-12-5	0.1		30	
			Chromium	7440-47-32	0.32		NA	
			Lead	7439-92-1	0.04		NA	
			Nickel	7440-02-0	0.44		NA	
F010	NA	NA	Cyanides (Total)	57-12-5	1.9		1.5	
			Cyanides (Amenable)	57-12-5	0.1		NA	
F011	NA	Table CCWE in 268.41	Cyanides (Total)	57-12-5	1.9		110	
			Cyanides (Amenable)	57-12-5	0.1		9.1	
			Chromium (Total)	7440-47-32	0.32		NA	
			Lead	7439-92-1	0.04		NA	
			Nickel	7440-02-0	0.44		NA	
F012	NA	Table CCWE in 268.41	Cyanides (Total)	57-12-5	1.9		110	
			Cyanides (Amenable)	57-12-5	0.1		9.1	
			Chromium (Total)	7440-47-32	0.32		NA	
			Lead	7439-92-1	0.04		NA	
			Nickel	7440-02-0	0.44		NA	
F019	NA	Table CCWE in 268.41	Cyanides (Total)	57-12-5	1.2		590	(3)
			Cyanides (Amenable)	57-12-5	0.86		30	(3)
			Chromium (Total)	7440-47-32	0.32		NA	
F024	NA	Table CCWE in 268.41 and Table 2 in 268.42 (Note: F024 organic standards must be treated via incineration (INCIN))	2-Chloro-1,3-butadiene	126-99-8	0.28	(1)	0.28	(1)
			3-Chloropropene	107-05-	0.28	(1)	0.28	(1)
			1,1-Dichloroethane	75-34-3	0.014	(1)	0.014	(1)
			1,2-Dichloroethane	107 06-2	0.014	(1)	0.014	(1)

			1,2-Dichloropropane	78-87-5	0.014	(1)	0.014 (1)
			cis-1,3 Dichloropropene	10061-01-5	0.014	(1)	0.014 (1)
			trans-1,3-Dichloropropene	10061-02-6	0.014	(1)	0.014 (1)
			Bis(2-ethylhexyl)phthalate	117-81-7	0.036	(1)	1.8 (1)
			Hexachloroethane	67-72-1	0.036	(1)	1.8 (1)
			Chromium (Total)	7440-47-32	0.35		NA
			Nickel	7440-02-0	0.47		NA
F025 (Light Ends Sub-category).	NA	NA	Chloroform	67-66-3	0.046	(2)	6.2 (1)
			1,2-Dichloroethane	107-06-2	0.21	(2)	6.2 (1)
			1,1-Dichloroethylene	75-35-4	0.025	(2)	6.2 (1)
			Methylene chloride	75-9-2	0.089	(2)	31 (1)
			Carbon tetrachloride	56-23-5	0.057	(2)	6.2 (1)
			1,1,2-Trichloroethane	79-00-5	0.054	(2)	6.2 (1)
			Trichloroethylene	79-01-6	0.054	(2)	5.6 (1)
			Vinyl chloride	75-01-4	0.27	(2)	33 (1)
F025 (Spent Filters or Aids and Desicants Sub-category).	NA	NA	Chloroform	67-66-3	0.046	(2)	6.2 (1)
			Methylene chloride	75-9-2	0.089	(2)	31 (1)
			Carbon tetrachloride	56-23-5	0.057	(2)	6.2 (1)
			1,1,2-Trichloroethane	79-00-5	0.054	(2)	6.2 (1)
			Trichloroethylene	79-01-6	0.054	(2)	5.6 (1)
			Vinyl chloride	75-01-4	0.27	(2)	33 (1)
			Hexachlorobenzene	118-74-1	0.055	(2)	37 (1)
			Hexachlorobutadiene	87-68-3	0.055	(2)	28 (1)
			Hexachloroethane	67-72-1	0.055	(2)	30 (1)
F039	NA	Table CCWE in 268.41	Acetone	67-64-1	0.28	(2)	160 (1)
			Acenaphthalene	208-96-8	0.059	(2)	3.4 (1)
			Acenaphthene	83-32-9	0.059	(2)	4.0 (1)
			Acetonitrile	75-05-8	0.17	(2)	NA
			Acetophenone	96-86-2	0.010	(2)	9.7
			2-Acetylaminofluorene	53-96-3	0.059	(2)	140 (1)
			Acrolein	107-02-8	0.29	(2)	NA
			Acrylonitrile	107-13-1	0.24	(2)	84 (1)
			Aldrin	309-00-2	0.021	(2)	0.066 (1)
			4-Aminobiphenyl	92-67-1	0.13	(2)	NA
			Aniline	62-53-3	0.81	(2)	14 (1)
			Anthracene	120-12-7	0.059	(2)	4.0 (1)
			Aramite	140-57-8	0.36	(2)	NA

Aroclor 1016	12674-11-2	0.013	(2)	0.92	(1)
Aroclor 1221	11104-28-2	0.014	(2)	0.92	(1)
Aroclor 1232	11141-16-5	0.013	(2)	0.92	(1)
Aroclor 1242	53469-21-9	0.017	(2)	0.92	(1)
Aroclor 1248	12672-29-6	0.013	(2)	0.92	(1)
Aroclor 1254	11097-69-1	0.014	(2)	1.8	(1)
Aroclor 1260	11096-82-5	0.014	(2)	1.8	(1)
alpha-BHC	319-84-6	0.00014	(2)	0.066	(1)
beta-BHC	319-85-7	0.00014	(2)	0.066	(1)
delta-BHC	319-86-8	0.023	(2)	0.066	(1)
gamma-BHC	58-89-9	0.0017	(2)	0.066	(1)
Benzene	71-43-2	0.14	(2)	36	(1)
Benz(a)anthracene	56-55-3	0.059	(2)	8.2	(1)
Benzo(b)fluoranthene	205-99-2	0.055	(2)	3.4	(1)
Benzo(k)fluoranthene	207-08-9	0.059	(2)	3.4	(1)
Benzo(g,h,i)perylene	191-24-2	0.0055	(2)	1.5	(1)
Benzo(a)pyrene	50-32-8	0.061	(2)	8.2	(1)
Bromodichloromethane	75-27-4	0.35	(2)	15	(1)
Bromoform (Tribromomethane)	75-25-2	0.63	(2)	15	(1)
Bromomethane (methyl bromide)	74-83-9	0.11	(2)	15	(1)
4-Bromophenyl phenyl ether	101-55-3	0.055	(2)	15	(1)
n-Butyl alcohol	71-36-3	5.6	(2)	2.6	(1)
Butyl benzyl phthalate	85-68-7	0.017	(2)	7.9	(1)
2-sec-Butyl-4,6-dinitrophenol	88-85-7	0.066	(2)	2.5	(1)
Carbon tetrachloride	56-23-5	0.057	(2)	5.6	(1)
Carbon disulfide	75-15-0	0.014	(2)	NA	
Chlordane	57-74-9	0.0033	(2)	0.13	(1)
p-Chloroaniline	106-47-8	0.46	(2)	16	(1)
Chlorobenzene	108-90-7	0.057	(2)	5.7	(1)
Chlorobenzilate	510-15-6	0.10	(2)	NA	
2-Chloro-1,3-butadiene	126-99-8	0.057	(2)	NA	
Chlorodibromomethane	124-48-1	0.057	(2)	15	(1)
Chloroethane	75-00-3	0.27	(2)	6.0	(1)
bis(2-Chloroethoxy) methane	111-91-1	0.036	(2)	7.2	(1)
bis(2-Chloroethyl) ether	111-44-4	0.033	(2)	7.2	(1)
Chloroform	67-66-3	0.046	(2)	5.6	(1)
bis(2-Chloroisopropyl) ether	39638-32-9	0.055	(2)	7.2	(1)
p-Chloro-m-cresol	59-50-7	0.018	(2)	14	(1)
Chloromethane (Methyl chloride)	74-87-3	0.19	(2)	33	(1)
2-Chloronaphthalene	91-8-7	0.055	(2)	5.6	(1)
2-Chlorophenol	95-57-8	0.044	(2)	5.7	(1)
3-Chloropropylene	107-05-1	0.036	(2)	28	(1)
Chrysene	218-01-9	0.059	(2)	8.2	(1)
o-Cresol	95-48-7	0.11	(2)	5.6	(1)
Cresol (m- and p- isomers)		0.77	(2)	3.2	(1)
Cyclohexanone	108-94-1	0.36	(2)	NA	
1,2-Dibromo-3-chloropropane	96-12-8	0.11	(2)	15	(1)

1,2-Dibromoethane (Ethylene dibromide)	106-93-4	0.028	(2)	15	(1)
Dibromomethane	74-95-3	0.11	(2)	15	(1)
2,4-Dichlorophenoxyacetic acid (2, 4-D)	94-75-7	0.72	(2)	10	(1)
o,p'-DDD	53-19-0	0.023	(2)	0.087	(1)
p,p'-DDD	72-54-8	0.023	(2)	0.087	(1)
o,p'-DDE	3424-82-6	0.031	(2)	0.087	(1)
p,p'-DDE	72-55-9	0.031	(2)	0.087	(1)
o,p'-DDT	789-02-6	0.0039	(2)	0.087	(1)
p,p'-DDT	50-29-3	0.0039	(2)	0.087	(1)
Dibenz(a,h)anthracene	53-70-3	0.055	(2)	8.2	(1)
Dibenzo(a,e)pyrene	192-65-4	0.061	(2)	NA	
m-Dichlorobenzene	541-73-1	0.036	(2)	6.2	(1)
o-Dichlorobenzene	95-50-1	0.088	(2)	6.2	(1)
p-Dichlorobenzene	106-46-7	0.090	(2)	6.2	(1)
Dichlorodifluoromethane	75-71-8	0.23	(2)	7.2	(1)
1,1-Dichloroethane	75-34-3	0.059	(2)	7.2	(1)
1,2-Dichloroethane	107-06-2	0.21	(2)	7.2	(1)
1,1-Dichloroethylene	75-35-4	0.025	(2)	33	(1)
trans-1,2-Dichloroethylene		0.054	(2)	33	(1)
2,4-Dichlorophenol	120-83-2	0.044	(2)	14	(1)
2,6-Dichlorophenol	87-65-0	0.044	(2)	14	(1)
1,2-Dichloropropane	78-87-5	0.85	(2)	18	(1)
cis-1,3-Dichloropropene	10061-01-5	0.036	(2)	18	(1)
trans-1,3-Dichloropropene	10061-02-6	0.036	(2)	18	(1)
Dieldrin	60-57-1	0.017	(2)	0.13	(1)
Diethyl phthalate	84-66-2	0.20	(2)	28	(1)
2,4-Dimethyl phenol	105-67-9	0.036	(2)	14	(1)
Dimethyl phthalate	131-11-3	0.047	(2)	28	(1)
Di-n-butyl phthalate	84-74-2	0.057	(2)	28	(1)
1,4-Dinitrobenzene	100-25-4	0.32	(2)	2.3	(1)
4,6-Dinitro-o-cresol	534-52-1	0.28	(2)	160	(1)
2,4-Dinitrophenol	51-28-5	0.12	(2)	160	(1)
2,4-Dinitrotoluene	121-14-2	0.32	(2)	140	(1)
2,6-Dinitrotoluene	606-20-2	0.55	(2)	28	(1)
Di-n-octyl phthalate	117-84-0	0.017	(2)	28	(1)
Di-n-propylnitrosoamine	621-64-7	0.40	(2)	14	(1)
Diphenylamine	122-39-4	0.52	(2)	NA	
1,2-Diphenyl hydrazine	122-66-7	0.087	(2)	NA	
Diphenyl nitrosamine	621-64-7	0.40	(2)	NA	
1, 4-Dioxane	123-91-1	0.12	(2)	170	(1)
Disulfoton	298-04-4	0.017	(2)	6.2	(1)
Endosulfan I	939-98-8	0.023	(2)	0.066	(1)
Endosulfan II	33213-6-5	0.029	(2)	0.13	(1)
Endosulfan sulfate	1031-07-8	0.029	(2)	0.13	(1)
Endrin	72-20-8	0.0028	(2)	0.13	(1)

Endrin aldehyde	7421-93-4	0.025	(2)	0.13	(1)
Ethyl acetate	141-78-6	0.34	(2)	33	(1)
Ethyl cyanide	107-12-0	0.24	(2)	360	(1)
Ethyl benzene	100-41-4	0.057	(2)	6.0	(1)
Ethyl ether	60-29-7	0.12	(2)	160	(1)
bis(2-Ethylhexyl) phthalate	117-81-7	0.28	(2)	28	(1)
Ethyl methacrylate	97-63-2	0.14	(2)	160	(1)
Ethylene oxide	75-21-8	0.12	(2)	NA	
Famphur	52-85-7	0.017	(2)	15	(1)
Fluoranthene	206-44-0	0.068	(2)	8.2	(1)
Fluorene	86 73-7	0.059	(2)	4.0	(1)
Fluorotrichloromethane	75 69-4	0.020	(2)	33	(1)
Heptachlor	76-44-8	0.0012	(2)	0.066	(1)
Heptachlor epoxide	1024-57-3	0.016	(2)	0.066	(1)
Hexachlorobenzene	118-74-1	0.055	(2)	37	(1)
Hexachlorobutadiene	87-68-3	0.055	(2)	28	(1)
Hexachlorocyclopentadiene	77-47-4	0.057	(2)	3.6	(1)
Hexachlorodibenzo-furans		0.000063	(2)	0.001	(1)
Hexachlorodibenzo-p-dioxins		0.000063	(2)	0.001	(1)
Hexachloroethane	67 72 1	0.055	(2)	28	(1)
Hexachloropropene	1888 71 7	0.035	(2)	28	(1)
Indeno(1,2,3 c,d) pyrene	193 39 5	0.0055	(2)	8.2	(1)
Iodomethane	74 88 4	0.19	(2)	65	(1)
Isobutanol	78-83-1	5.6	(2)	170	(1)
Isodrin	465-73-6	0.021	(2)	0.066	(1)
Isosafrole	120 58 1	0.081	(2)	2.6	(1)
Kepone	143 50 0	0.0011	(2)	0.13	(1)
Methacrylonitrile	126 98 7	0.24	(2)	84	(1)
Methanol	67 56 1	5.6	(2)	NA	
Methapyrilene	91-80-5	0.081	(2)	1.5	(1)
Methoxychlor	72-43-5	0.25	(2)	0.18	(1)
3-Methylcholanthrene	56 49 5	0.0055	(2)	15	(1)
4,4 Methylene bis (2 chloroaniline)	101 14 4	0.50	(2)	35	(1)
Methylene chloride	75 09 2	0.089	(2)	33	(1)
Methyl ethyl ketone	78 93 3	0.28	(2)	36	(1)
Methyl isobutyl ketone	108-10-1	0.14	(2)	33	(1)
Methyl methacrylate	80-62-6	0.14	(2)	160	(1)
Methyl methansulfonate	66-27-3	0.018	(2)	NA	
Methyl parathion	298-00-0	0.014	(2)	4.6	(1)
Naphthalene	91-20-3	0.059	(2)	3.1	(1)
2-Naphthylamine	91-59-8	0.52	(2)	NA	
p-Nitroaniline	100-01-6	0.028	(2)	28	(1)
Nitrobenzene	98-95-3	0.068	(2)	14	(1)
5-Nitro-o-toluidine	99-55-8	0.32	(2)	28	(1)
4-Nitrophenol	100-02-7	0.12	(2)	29	(1)
N-Nitrosodiethylamine	55-18-5	0.40	(2)	28	(1)

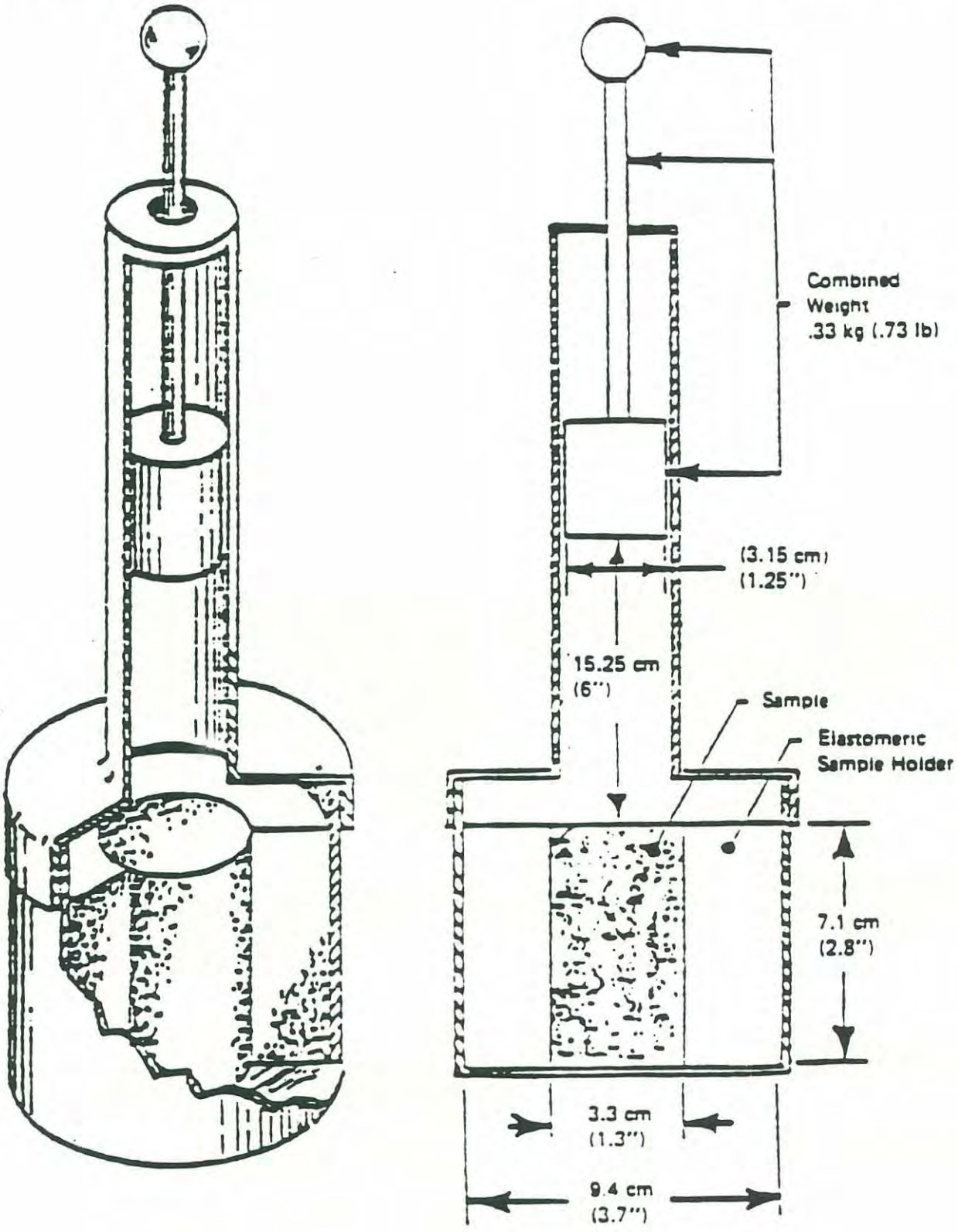

Figure 4 Compaction tester

			Sulfide	8496-25-8	14	(2)	NA	
			Antimony	7440-36-0	1.9	(2)	NA	
			Arsenic	7440-38-2	1.4	(2)	NA	
			Barium	7440-39-3	1.2	(2)	NA	
			Beryllium	7440-41-7	0.82	(2)	NA	
			Cadmium	7440-43-9	0.20	(2)	NA	
			Chromium (Total)	7440-47-32	0.37	(2)	NA	
			Copper	7440-50-8	1.3	(2)	NA	
			Lead	7439-92-1	0.28	(2)	NA	
			Mercury	7439-97-6	0.15	(2)	NA	
			Nickel	7440-02-0	0.55	(2)	NA	
			Selenium	7782-49-2	0.82	(2)	NA	
			Silver	7440-22-4	0.29	(2)	NA	
			Thallium	7440-28-0	1.4	(2)	NA	
			Vanadium	7440-62-2	0.042	(2)	NA	
			Zinc	7440-66-6	1.0	(2)	NA	
K001	NA	Table CCWE in 268.41	Naphthalene	91-20-3	0.031	(1)	1.5	(1)
			Pentachlorophenol	87-86-5	0.18	(1)	7.4	(1)
			Phenanthrene	85-01-8	0.031	(1)	1.5	(1)
			Pyrene	129-00-0	0.028	(1)	1.5	(1)
			Toluene	108-88-3	0.028	(1)	28	(1)
			Xylenes (Total)		0.032	(1)	33	(1)
			Lead	7439-92-1	0.037		NA	
K002	NA	Table CCWE in 268.41	Chromium (Total)	7440-47-32	0.9	(2)	NA	
			Lead	7439-92-1	3.4	(2)	NA	
K003	NA	Table CCWE in 268.41	Chromium (Total)	7440-47-32	0.9	(2)	NA	
			Lead	7439-92-1	3.4	(2)	NA	
K004	NA	Table CCWE in 268.41	Chromium (Total)	7440-47-32	0.9	(2)	NA	@
			Lead	7439-92-1	3.4	(2)	NA	
K005	NA	Table CCWE in 268.41	Chromium (Total)	7440-47-32	0.9	(2)	NA	
			Lead	7439-92-1	3.4	(2)	NA	
			Cyanides (Total)	57-12-5	0.74	(2)	(4)	
K006	NA	Table CCWE in 268.41	Chromium (Total)	7440-47-32	0.9	3.4	(2)	NA
			Lead	7439-92-1			(2)	NA
K007	NA	Table CCWE in 268.41	Chromium (Total)	7440-47-32	0.9	(2)	NA	
			Lead	7439-92-1	3.4	(2)	NA	
			Cyanides (Total)	57-12-5	0.74	(2)	(4)	
K008	NA	Table CCWE in 268.41	Chromium (Total)	7440-47-32	0.9	(2)	NA	
			Lead	7439-92 1	3.4	(2)	NA	
K009	NA	NA	Chloroform	67-66-3	0.1		6.0	(1)
K010	NA	NA	Chloroform	67-66-3	0.1		6.0	(1)
K011	NA	NA	Acetonitrile	75-05-8	38		1.8	(1)
			Acrylonitrile	107-13-1	0.06		1.4	(1)
			Acrylamide	79 06 1	19		23	(1)
			Benzene	71 43 2	0.02		0.03	(1)
			Cyanide (Total)	57 12 5	21		57	
K013	NA	NA	Acetonitrile	75 05 8	38		1.8	(1)

			Acrylonitrile	107-13-1	0.06	1.4	(1)
			Acrylamide	79-06-1	19	23	(1)
			Benzene	71-43-2	0.02	0.03	(1)
			Cyanide (Total)	57-12-5	21	57	
K014	NA	NA	Acetonitrile	75-05-8	38	1.8	(1)
			Acrylonitrile	107-13-1	0.06	1.4	(1)
			Acrylamide	79-06-1	19	23	(1)
			Benzene	71-43-2	0.02	0.03	(1)
			Cyanide (Total)	57-12-5	21	57	
K015	NA	Table CCWE in 268.41	Anthracene	120-12-7	1.0	3.4	(1)
			Benzal Chloride	98-87-3	0.28	6.2	(1)
			Sum of Benzo(b)fluoranthene	205-99-2			
			and Benzo(k)fluoranthene	207-08-9	0.29	3.4	(1)
			Phenanthrene	85-01-8	0.27	3.4	(1)
			Toluene	108-88-3	0.15	6.0	(1)
			Chromium (Total)	7440-47-32	0.32	NA	(1)
			Nickel	7440-02-0	0.44	NA	
K016	NA	NA	Hexachlorobenzene	118-74-1	0.033 (1)	28	(1)
			Hexachlorobutadiene	87-68-3	0.007 (1)	5.6	(1)
			Hexachlorocyclopentadiene	77-47-4	0.007 (1)	5.6	(1)
			Hexachloroethane	67-72-1	0.033 (1)	28	(1)
			Tetrachloroethene	127-18-4	0.007 (1)	6.0	(1)
K017	NA	NA	1,2-Dichloropropane	78-87-5	0.85 (1,2)	18	(1)
			1,2,3-Trichloropropane	96-18-4	0.85 (1,2)	28	(1)
			Bis(2-chloroethyl)ether	111-44-4	0.033 (1,2)	7.2	(1)
K018	NA	NA	Chloroethane	75-00-3	0.007 (1)	6.0	(1)
			Chloromethane	74-87-3	0.007 (1)	NA	
			1,1-Dichloroethane	75-34-3	0.007 (1)	6.0	(1)
			1,2-Dichloroethane	107-06-2	0.007 (1)	6.0	(1)
			Hexachlorobenzene	118-74-1	0.033 (1)	28	(1)
			Hexachlorobutadiene	87-68-3	0.007 (1)	5.6	(1)
			Hexachloroethane	67-72-1	NA	28	(1)
			Pentachloroethane	76-01-7	0.007 (1)	5.6	(1)
			1,1,1-Trichloroethane	71-55-6	0.007 (1)	6.0	(1)
K019	NA	NA	Bis(2-chloroethyl)ether	111-44-4	0.007 (1)	5.6	(1)
			Chlorobenzene	108-90-7	0.006 (1)	6.0	(1)
			Chloroform	67-66-3	0.007 (1)	6.0	(1)
			p-Dichlorobenzene	106-46-7	0.008 (1)	NA	
			1,2-Dichloroethane	107-06-2	0.007 (1)	6.0	(1)
			Fluorene	86-73-7	0.007 (1)	NA	
			Hexachloroethane	67-72-1	0.033 (1)	28	(1)
			Naphthalene	91-20-3	0.007 (1)	5.6	(1)
			Phenanthrene	85-01-8	0.007 (1)	5.6	(1)
			1,2,4,5-Tetrachlorobenzene	95-94-3	0.017 (1)	NA	
			Tetrachloroethene	127-18-4	0.007 (1)	6.0	(1)
			1,2,4-Trichlorobenzene	120-82-1	0.023 (1)	19	(1)
			1,1,1-Trichloroethane	71-55-6	0.007 (1)	6.0	(1)

K020	NA	NA	1,2-Dichloroethane	107-06-2	0.007	(1)	6.0	(1)
			1,1,2,2-Tetrachloroethane	79-34-6	0.007	(1)	5.6	(1)
			Tetrachloroethene	127-18-4	0.007	(1)	6.0	(1)
K021	NA	Table CCWE in 268.41	Chloroform	67-66-3	0.046	(2)	6.2	(1)
			Carbon tetrachloride	56-23-5	0.057	(2)	6.2	(1)
			Antimony	7440-36-0	0.60	(2)	NA	(1)
K022	NA	Table CCWE in 268.41	Toluene	108-88-3	0.080	(2)	0.034	(1)
			Acetophenone	96-86-2	0.010		19	(1)
			Diphenylamine	22-39-4	0.52	(2)	NA	
			Diphenylnitrosamine	86-30-6	0.40	(2)	NA	
			Sum of Diphenylamine and Diphenylnitrosamine		NA		13	(1)
			Phenol	108-95-2	0.039		12	(1)
			Chromium (Total)	7440-47-32	0.35		NA	
			Nickel	7440-02-0	0.47		NA	
K023	NA	NA	Phthalic anhydride (measured as Phthalic acid)	85-44-9	0.54	(1)	28	(1)
K024	NA	NA	Phthalic anhydride (measured as Phthalic acid)	85-44-9	0.54	(1)	28	(1)
K028	NA	Table CCWE in 268.41	1,1-Dichloroethane	75-34-3	0.007	(1)	6.0	(1)
			trans-1,2-Dichloroethane		0.033	(1)	6.0	(1)
			Hexachlorobutadiene	87-68-3	0.007	(1)	5.6	(1)
			Hexachloroethane	67-72-1	0.033	(1)	28	(1)
			Pentachloroethane	76-01-7	0.033	(1)	5.6	(1)
			1,1,1,2-Tetrachloroethane	630-20-6	0.007	(1)	5.6	(1)
			1,1,2,2-Tetrachloroethane	79-34-6	0.007	(1)	5.6	(1)
			1,1,1-Trichloroethane	71-55-6	0.007	(1)	6.0	(1)
			1,1,2-Trichloroethane	79-00-5	0.007	(1)	6.0	(1)
			Tetrachloroethylene	127-18-4	0.007	(1)	6.0	(1)
			Cadmium	7440-43-9	6.4		NA	
			Chromium (Total)	7440-47-32	0.35		NA	
			Lead	7439-92-1	0.037		NA	
			Nickel	7440-02-0	0.47		NA	
K029	NA	NA	Chloroform	67-66-3	0.046		6.0	(1)
			1,2-Dichloroethane	107-06-2	0.21		6.0	(1)
			1,1-Dichloroethylene	75-35-4	0.025		6.0	(1)
			1,1,1-Trichloroethane	71-55-6	0.054		6.0	(1)
			Vinyl chloride	75-01-4	0.27		6.0	(1)
K030	NA	NA	o-Dichlorobenzene	95-50-1	0.008	(1)	NA	
			p-Dichlorobenzene	106-46-7	0.008	(1)	NA	
			Hexachlorobutadiene	87-68-3	0.007	(1)	5.6	(1)
			Hexachloroethane	67-72-1	0.033	(1)	28	(1)
			Hexachloropropene	1888-71-7	NA		19	(1)
			Pentachlorobenzene	608-93-5	NA		28	(1)
			Pentachloroethane	76-01-7	0.007	(1)	5.6	(1)
			1,2,4,5-Tetrachlorobenzene	95-94-3	0.017	(1)	14	(1)
			Tetrachloroethene	127-18-4	0.007	(1)	6.0	(1)

			1,2,4-Trichlorobenzene	120-82-1	0.023	(1)	19	(1)
K031	NA	Table CCWE in 268.41	Arsenic	7440-38-2	0.79		NA	(1)
K032	NA	NA	Hexachloropentadiene	77-47-4	0.057	(2)	2.4	(1)
			Chlordane	57-74-9	0.0033	(2)	0.26	(1)
			Heptachlor	76-44-8	0.0012	(2)	0.066	(1)
			Heptachlor epoxide	1024-57-3	0.016	(2)	0.066	(1)
K033	NA	NA	Hexachlorocyclopentadiene	77-47-4	0.057	(2)	2.4	(1)
K034	NA	NA	Hexachlorocyclopentadiene	77-47-4	0.057	(2)	2.4	(1)
K035	NA	NA	Acenaphthene	83-32-9	NA		3.4	(1)
			Anthracene	120-12-7	NA		3.4	(1)
			Benz(a)anthracene	56-55-3	0.059	(2)	3.4	(1)
			Benzo(a)pyrene	50-32-8	NA		3.4	(1)
			Chrysene	218-01-9	0.059	(2)	3.4	(1)
			Dibenz(a,h)anthracene	53-70-3	NA		3.4	(1)
			Fluoranthene	206-44-0	0.068	(2)	3.4	(1)
			Fluorene	86-73-7	NA		3.4	(1)
			Indeno(1,2,3-cd)pyrene	193-39-5	NA		3.4	(1)
			Cresols (m- and p- isomers)		0.77	(2)	NA	
			Naphthalene	91-20-3	0.059	(2)	3.4	(1)
			o-cresol	95-48-7	0.11	(2)	NA	
			Phenanthrene	85-01-8	0.059	(2)	3.4	(1)
			Phenol	108-95-2	0.039		NA	
			Pyrene	129-00-0	0.067	(2)	8-2	(1)
K036	NA	NA	Disulfoton	298-04-4	0.025	(2)	0.1	(1)
K037	NA	NA	Disulfoton	298-04-4	0.025	(2)	0.1	(1)
			Toluene	108-88-3	0.080	(2)	28	(1)
K038	NA	NA	Phorate	298-02-2	0.025	(2)	0.1	(1)
K040	NA	NA	Phorate	298-02-2	0.025	(2)	0.1	(1)
K041	NA	NA	Toxaphene	8001-35-1	0.0095	(2)	2.6	(1)
K042	NA	NA	1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	(2)	4.4	(1)
			o-Dichlorobenzene	95-50-1	0.088	(2)	4.4	(1)
			p-Dichlorobenzene	106-46-7	0.090	(2)	4.4	(1)
			Pentachlorobenzene	608-93-5	0.055	(2)	4.4	(1)
			1,2,4-Trichlorobenzene	120-82-1	0.055	(2)	4.4	(1)
K043	NA	NA	2,4-Dichlorophenol	120-83-2	0.049	(1)	0.38	(1)
			2,6-Dichlorophenol	87-65-0	0.013	(1)	0.34	(1)
			2,4,5-Trichlorophenol	95-95-4	0.016	(1)	8.2	(1)
			2,4,6-Trichlorophenol	88-06-2	0.039	(1)	7.6	(1)
			Tetrachlorophenols (Total)		0.018	(1)	0.68	(1)
			Pentachlorophenol	87-86-5	0.022	(1)	1.9	(1)
			Tetrachloroethene	79-01-6	0.006	(1)	1.7	(1)
			Hexachlorodibenzo-p-dioxins		0.001	(1)	0.001	(1)
			Hexachlorodibenzo-furans		0.001	(1)	0.001	(1)
			Pentachlorodibenzo-p-dioxins		0.001	(1)	0.001	(1)
			Pentachlorodibenzo-furans		0.001	(1)	0.001	(1)
			Tetrachlorodibenzo-p-dioxins		0.001	(1)	0.001	(1)
			Tetrachlorodibenzo-furans		0.001	(1)	0.001	(1)

K046	NA	Table CCWE in 268.41	Lead	7439-92-1	0.037		NA	
K048	NA	Table CCWE in 268.41	Benzene	71-43-2	0.011	(1)	14	(1)
			Benzo(a)pyrene	50-32-8	0.047	(1)	12	(1)
			Bis(2-ethylhexyl)phthalate	117-81-7	0.043	(1)	7.3	(1)
			Chrysene	218-01-9	0.043	(1)	15	(1)
			Di-n-butyl phthalate	84-74-2	0.06	(1)	3.6	(1)
			Ethylbenzene	100-41-4	0.011	(1)	14	(1)
			Fluorene	86-73-7	0.005	(1)	NA	
			Naphthalene	91-20-3	0.033	(1)	42	(1)
			Phenanthrene	85-01-8	0.039	(1)	34	(1)
			Phenol	108-95-2	0.047	(1)	3.6	(1)
			Pyrene	129-00-0	0.045	(1)	36	(1)
			Toluene	108-88-3	0.011	(1)	14	(1)
			Xylene(s)		0.011	(1)	22	(1)
			Cyanides (Total)	57-12-5	0.028	(1)	1.8	(1)
			Chromium (Total)	7440-47-32	0.2		NA	
			Lead	7439-92-1	0.037		NA	
K049	NA	Table CCWE in 268.41	Anthracene	120-12-7	0.039	(1)	28	(1)
			Benzene	71 43 2	0.011	(1)	14	(1)
			Benzo(a)pyrene	50 32 8	0.047	(1)	12	(1)
			Bis(2-ethylhexyl)phthalate	117 81 7	0.043	(1)	7.3	(1)
			Carbon disulfide	75 15 0	0.011	(1)	NA	
			Chrysene	2218-01-9	0.043	(1)	15	(1)
			2,4-Dimethylphenol	105 67 9	0.033	(1)	NA	
			Ethylbenzene	100 41 4	0.011	(1)	14	(1)
			Napthalene	91 20 3	0.033	(1)	42	(1)
			Phenanthrene	85 01 8	0.039	(1)	34	(1)
			Phenol	108 95 2	0.047	(1)	3.6	(1)
			Pyrene	129-00-0	0.045	(1)	36	(1)
			Toluene	108 88 3	0.011	(1)	14	(1)
			Xylene(s)		0.011	(1)	22	(1)
			Cyanides (Total)	57 12 5	0.028	(1)	1.8	(1)
			Chromium (Total)	7440 47 32	0.2		NA	
			Lead	7439 92 1	0.037	(1)	NA	
K050	NA	Table CCWE in 268.41	Benzo(a)pyrene	50-32-8	0.047	(1)	12	(1)
			Phenol	108-95-2	0.047	(1)	3.6	(1)
			Cyanides (Total)	57-12-5	0.028	(1)	1.8	(1)
			Chromium (Total)	7440-47-32	0.2		NA	
			Lead	7439-92-1	0.037		NA	
K051	NA	Table CCWE in 268.41	Acenaphthene	208-96-8	0.05	(1)	NA	
			Anthracene	120-12-7	0.039	(1)	28	(1)
			Benzene	71-43-2	0.011	(1)	14	(1)
			Benzo(a)anthracene	50-32-8	0.043	(1)	20	
			Benzo(a)pyrene	117-81-7	0.047	(1)	12	(1)
			Bis(2-ethylhexyl)phthalate	75-15-0	0.043	(1)	7.3	(1)
			Chrysene	2218-01-9	0.043	(1)	15	(1)
			Di-n-butyl phthalate	105-67-9	0.06	(1)	3.6	(1)

			Ethylbenzene	100-41-4	0.011	(1)	14	(1)
			Fluorene	86-73-7	0.05	(1)	NA	
			Naphthalene	91-20-3	0.033	(1)	42	(1)
			Phenanthrene	85-01-8	0.039	(1)	34	(1)
			Phenol	108-95-2	0.047	(1)	3.6	(1)
			Pyrene	129-00-0	0.045	(1)	36	(1)
			Toluene	108-88-3	0.011	(1)	14	(1)
			Xylene(s)		0.011	(1)	22	(1)
			Cyanides (Total)	57-12-5	0.028	(1)	1.8	(1)
			Chromium (Total)	7440-47-32	0.02		NA	
			Lead	7439-92-1	0.037		NA	
K052	NA	Table CCWE in 268.41	Benzene	71-43-2	0.011	(1)	14	(1)
			Benzo(a)pyrene	50-32-8	0.047	(1)	12	(1)
			o-Cresol	95-48-7	0.011	(1)	6.2	(1)
			p-Cresol	106-44-5	0.011	(1)	6.2	(1)
			2,4-Dimethylphenol	105-67-9	0.033	(1)	NA	
			Ethylbenzene	100-41-4	0.011	(1)	14	(1)
			Naphthalene	91-20-3	0.033	(1)	42	(1)
			Phenanthrene	85-01-8	0.039	(1)	42	(1)
			Phenol	108-95-2	0.047	(1)	3.6	(1)
			Toluene	108-88-3	0.011	(1)	14	(1)
			Xylene(s)		0.011	(1)	22	(1)
			Cyanides (Total)	57-12-5	0.028	(1)	1.8	(1)
			Chromium (Total)	7440-47-32	0.02		NA	
			Lead	7439-92-1	0.037		NA	
K060	NA	NA	Benzene	71-43-2	0.17	(1,2)	0.071	(1)
			Benzo(a)pyrene	50-32-8	0.035	(1,2)	3.6	(1)
			Naphthalene	91-20-3	0.028	(1,2)	3.4	(1)
			Phenol	108-95-2	0.042	(1,2)	3.4	(1)
			Cyanides (Total)	57-12-5	1.9		1.2	
K061	NA	Table CCWE in 268.41	Cadmium	7440-43-9	1.61		NA	
			Chromium (Total)	7440-47-32	0.32		NA	
			Lead	7439-92-1	0.51		NA	
			Nickel	7440-02-0	0.44		NA	
K062	NA	Table CCWE in 268.41	Chromium (Total)	7440-47-32	0.32		NA	
			Lead	7439-92-1	0.04		NA	
			Nickel	7440-02-0	0.44		NA	
K069	NA	Table CCWE in 268.41 and Table 2 in 268.42	Cadmium	7440-43-9	1.6		NA	
			Lead	7439-92-1	0.51		NA	
K071	NA	Table CCWE in 268.41	Mercury	7439-97-6	0.030		NA	
K073	NA	NA	Carbon tetrachloride	56-23-5	0.057	(2)	6.2	(1)
			Chloroform	67-66-3	0.046	(2)	6.2	(1)
			Hexachloroethane	67-72-1	0.055	(2)	30	(1)
			Tetrachloroethane	127-18-4	0.056	(2)	6.2	(1)
			1,1,1-Trichloroethane	71-55-6	0.054	(2)	6.2	(1)
K083	NA	Table CCWE in 268.41	Benzene	71-43-2	0.14	(2)	6.6	(1)

			Aniline	62-53-3	0.81		14 (1)
			Diphenylamine	22-39-4	0.52	(2)	NA
			Diphenylnitrosamine	86-30-6	0.40	(2)	NA
			Sum of Diphenylamine and Diphenylnitrosamine		NA		14 (1)
			Nitrobenzene	98-95-3	0.068	(2)	14 (1)
			Phenol	108-95-2	0.039		5.6 (1)
			Cyclohexanone	108-94-1	0.36		NA
			Nickel	7440-02-0	0.47		NA
K084	NA	NA	Arsenic	7440-38-2	0.79		NA
K085	NA	NA	Benzene	71-43-2	0.14	(2)	4.4 (1)
			Chlorobenzene	108-90-7	0.057	(2)	4.4 (1)
			o-Dichlorobenzene	95-50-1	0.088	(2)	4.4 (1)
			m-Dichlorobenzene	541-73-1	0.036	(2)	4.4 (1)
			p-Dichlorobenzene	106-46-7	0.090	(2)	4.4 (1)
			1,2,4-Trichlorobenzene	120-82-1	0.055	(2)	4.4 (1)
			1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	(2)	4.4 (1)
			Pentachlorobenzene	608-93-5	0.055	(2)	4.4 (1)
			Hexachlorobenzene	118-74-1	0.055	(2)	4.4 (1)
			Aroclor 1016	12674-11-2	0.013	(2)	0.92 (1)
			Aroclor 1221	11104-28-2	0.014	(2)	0.92 (1)
			Aroclor 1232	11141-16-5	0.013	(2)	0.92 (1)
			Aroclor 1242	53469-21-9	0.017	(2)	0.92 (1)
			Aroclor 1248	12672-29-6	0.013	(2)	0.92 (1)
			Aroclor 1254	11097-69-1	0.014	(2)	1.8 (1)
			Aroclor 1260	11096-82-5	0.014	(2)	1.8 (1)
K086	NA	Table CCWE in 268.41	Acetone	67-64-1	0.28		160 (1)
			Acetophenone	96-86-2	0.010		9.7 (1)
			Bis(2-ethylhexyl)phthalate	117-81-7	0.28	(2)	28 (1)
			n-Butyl alcohol	71-36-3	5.6		2.6 (1)
			Butylbenzylphthalate	85-68-7	0.017	(2)	7.9 (1)
			Cycloghexanone	108-94-1	0.36		NA
			1,2-Dichlorobenzene	95-50-1	0.088		6.2 (1)
			Diethyl phthalate	84-66-2	0.20	(2)	28 (1)
			Dimethyl phthalate	131-11-3	0.047	(2)	28 (1)
			Di-n-butyl phthalate	84-74-2	0.057	(2)	28 (1)
			Di-n-octyl phthalate	117-84-0	0.017	(2)	28 (1)
			Ethyl acetate	141-78-6	0.34	(2)	33 (1)
			Ethylbenzene	100-41-4	0.057	(2)	6.0 (1)
			Methanol	67-56-1	5.6	(2)	NA
			Methyl isobutyl ketone	108-10-1	0.14		33 (1)
			Methyl ethyl ketone	78-93-3	0.28		36 (1)
			Methylene chloride	75-09-2	0.089	(2)	33 (1)
			Naphthalene	91-20-3	0.059	(2)	3.1 (1)
			Nitrobenzene	98-95-3	0.068	(2)	14 (1)
			Toluene	108-88-3	0.080	(2)	28 (1)
			1,1,1-Trichloroethane	71-55-6	0.054	(2)	5.6 (1)

			Trichloroethylene	79-01-6	0.054	(2)	5.6	(1)
			Xylenes (Total)		0.32	(2)	28	(1)
			Cyanides (Total)	57-12-5	1.9		1.5	(1)
			Chromium (Total)	7440-47-32	0.32		NA	
			Lead	7439-92-1	0.037		NA	
K087	NA	Table CCWE in 268.41	Acenaphthalene	208-96-8	0.028	(1)	3.4	(1)
			Benzene	71-43-2	0.014	(1)	0.071	(1)
			Chrysene	218-01-9	0.028	(1)	3.4	(1)
			Fluoranthene	206-44-0	0.028	(1)	3.4	(1)
			Indeno(1,2,3-cd)pyrene	193-39-5	0.028	(1)	3.4	(1)
			Naphthalene	91-20-3	0.028	(1)	3.4	(1)
			Phenanthrene	85-01-8	0.028	(1)	3.4	(1)
			Toluene	108-88-3	0.008	(1)	0.65	(1)
			Xylenes		0.014	(1)	0.07	(1)
			Lead	7439-92-1	0.037		NA	
K093	NA	NA	Phthalic anhydride (measured as Phthalic acid)	85-44-9	0.54	(1)	28	(1)
K094	NA	NA	Phthalic anhydride (measured as Phthalic acid)	85-44-9	0.54	(1)	28	(1)
K095	NA	NA	1,1,1,2-Tetrachloroethane	630-20-6	0.057		5.6	(1)
			1,1,2,2-Tetrachloroethane	79-34-6	0.057		5.6	(1)
			Tetrachloroethene	127-18-4	0.056		6.0	(1)
			1,1,2-Trichloroethane	79-00-5	0.054		6.0	(1)
			Trichloroethylene	79-01-6	0.054		5.6	(1)
			Hexachloroethane	67-72-1	0.055		28	(1)
			Pentachloroethane	76-01-7	0.055		5.6	(1)
K096	NA	NA	1,1,1,2-Tetrachloroethane	630-20-6	0.057		5.6	(1)
			1,1,2,2-Tetrachloroethane	79-34-6	0.057		5.6	(1)
			Tetrachloroethene	127-18-4	0.056		6.0	(1)
			1,1,2-Trichloroethane	79-00-5	0.054		6.0	(1)
			Trichloroethene	79-01-6	0.054		5.6	(1)
			Trichloroethylene	79-01-6	0.054		5.6	(1)
			1,3-Dichlorobenzene	541-73-1	0.036		5.6	(1)
			Pentachloroethane	76-01-7	0.055		5.6	(1)
			1,2,4-Trichlorobenzene	120-82-1	0.055		19	(1)
K097	NA	NA	Hexachlorocyclopentadiene	77-47-4	0.057	(2)	2.4	(1)
			Chlordane	57-74-9	0.0033	(2)	0.26	(1)
			Heptachlor	76-44-8	0.0012	(2)	0.066	(1)
			Heptachlor epoxide	1024-57-3	0.016	(2)	0.066	(1)
K098	NA	NA	Toxaphene	8001-35-1	0.0095	(2)	2.6	(1)
K099	NA	NA	2,4-Dichlorophenoxyacetic acid	94-75-7	1.0	(1)	1.0	(1)
			Hexachlorodibenzo-p-dioxins		0.001	(1)	0.001	(1)
			Hexachlorodibenzofurans		0.001	(1)	0.001	(1)
			Pentachlorodibenzo-p-dioxins		0.001	(1)	0.001	(1)
			Pentachlorodibenzofurans		0.001	(1)	0.001	(1)
			Tetrachlorodibenzo-p-dioxins		0.001	(1)	0.001	(1)
			Tetrachlorodibenzofurans		0.001	(1)	0.001	(1)

K100	NA	Table CCWE in 268.41	Cadmium	7440-43-9	1.6		NA	
			Chromium (Total)	7440-47-32	0.32		NA	
			Lead	7439-92-1	0.51		NA	
K101	NA	NA	o-Nitroaniline		0.27	(1)	14	(1)
			Arsenic	7440-38-2	0.79		NA	
			Cadmium	7440-43-9	0.24		NA	
			Lead	7439-92-1	0.17		NA	
			Mercury	7439-97-6	0.082		NA	
K102	NA	Table CCWE in 268.41	o-Nitrophenol		0.028	(1)	13	(1)
			Arsenic	7440-38-2	0.79		NA	
			Cadmium	7440-43-9	0.24		NA	
			Lead	7439-92-1	0.17		NA	
			Mercury	7439-97-6	0.082		NA	
K103	NA	NA	Aniline	62-53-3	4.5		5.6	(1)
			Benzene	71-43-2	0.15		6.0	(1)
			2,4-Dinitrophenol	51-28-5	0.61		5.6	(1)
			Nitrobenzene	98-95-3	0.073		5.6	(1)
			Phenol	108-95-2	1.4		5.6	(1)
K104	NA	NA	Aniline	62-53-3	4.5		5.6	(1)
			Benzene	71-43-2	0.15		6.0	(1)
			2,4-Dinitrophenol	51-28-5	0.61		5.6	(1)
			Nitrobenzene	98-95-3	0.073		5.6	(1)
			Phenol	108-95-2	1.4		5.6	(1)
			Cyanides (Total)	57-12-5	2.7		1.8	(1)
K105	NA	NA	Benzene	71-43-2	0.14		4.4	(1)
			Chlorobenzene	108-90-7	0.057		4.4	(1)
			o-Dichlorobenzene	95-50-1	0.088		4.4	(1)
			p-Dichlorobenzene	106-46-7	0.090		4.4	(1)
			2,4,5-Trichlorophenol	95-95-4	0.18		4.4	(1)
			2,4,6-Trichlorophenol	88-06-2	0.035		4.4	(1)
			2-Chlorophenol	95-57-8	0.044		4.4	(1)
			Phenol	108-95-2	0.039		4.4	(1)
K106	NA	Table CCWE in 268.41 and Table 2 in 268.42	Mercury	7439-97-6	0.030		NA	
K115	NA	Table CCWE in 268.41	Nickel	7440-02-0	0.47		NA	
P004	Aldrin	NA	Aldrin	309-00-2	0.021	(2)	0.066	(1)
P010	Arsenic acid	Table CCWE in 268.41	Arsenic	7440-38-2	0.79		NA	
P011	Arsenic pentoxide	Table CCWE in 268.41	Arsenic	7440-38-2	0.79		NA	
P012	Arsenic trioxide	Table CCWE in 268.41	Arsenic	7440-38-2	0.79		NA	
P013	Barium cyanide	Table CCWE in 268.41	Cyanides (Total)	57-12-5	1.9		110	
			Cyanides (Amenable)	57-12-5	0.1		9.1	
P020	2-sec-Butyl-4,6-dinitrophenol (Dinoseb)	NA	2-sec-Butyl-4,6-dinitrophenol (Dinoseb)	88-85-7	0.066		2.5	(1)
P021	Calcium cyanide	NA	Cyanides (Total)	57-12-5	1.9		110	
			Cyanides (Amenable)	57-12-5	0.1		9.1	
P022	Carbon disulfide	Table 2 in 268.42	Carbon disulfide	75-15-0	0.014		NA	
P024	p-Chloroaniline	NA	p-Chloroaniline	106-47-8	0.46		16	(1)

P029	Copper cyanide	NA	Cyanides (Total)	57-12-5	1.9		110	
			Cyanides (Amenable)	57-12-5	0.1		9.1	
P030	Cyanides (soluble salts and complexes)	NA	Cyanides (Total)	57-12-5	1.9		110	
			Cyanides (Amenable)	57-12-5	0.1		9.1	
P036	Dichlorophenylarsine	Table CCWE in 268.41	Arsenic	7440-38-2	0.79		NA	
P037	Dieldrin	NA	Dieldrin	60-57-1	0.017	(2)	0.13	(1)
P038	Diethylarsine	Table CCWE in 268.41	Arsenic	7440-38-2	0.79		NA	
P039	Disulfoton	NA	Disulfoton	298-04-4	0.017		0.1	(1)
P047	4,6-Dinitro-o-cresol	NA	4,6-Dinitro-o-cresol	534-52-1	0.28	(2)	160	(1)
P048	2,4-Dinitrophenol	NA	2,4-Dinitrophenol	51-28-5	0.12	(2)	160	(1)
P050	Endosulfan	NA	Endosulfan I	939-98-8	0.023	(2)	0.066	(1)
			Endosulfan II	33213-6-5	0.029	(2)	0.13	(1)
			Endosulfan sulfate	1031-07-8	0.029	(2)	0.13	(1)
P051	Endrin	NA	Endrin	72-20-8	0.0028	(2)	0.13	(1)
			Endrin aldehyde	7421-93-4	0.025	(2)	0.13	(1)
P056	Fluoride	Table 2 in 268.42	Fluoride	16964-48-8	35		NA	
P059	Heptachlor	NA	Heptachlor	76-44-8	0.0012	(2)	0.066	(1)
			Heptachlor epoxide	1024-57-3	0.016	(2)	0.066	(1)
P060	Isodrin	NA	Isodrin	465-73-6	0.021	(2)	0.066	(1)
P063	Hydrogen cyanide	NA	Cyanides (Total)	57-12-5	1.9		110	
			Cyanides (Amenable)	57-12-5	0.10		9.1	
P065	Mercury fulminate	Table CCWE in 268.41 and Table 2 in 268.42	Mercury	7439-97-6	0.030		NA	
P071	Methyl parathion	NA	Methyl parathion	298-00-0	0.025		0.1	(1)
P073	Nickel carbonyl	Table CCWE in 268.41	Nickel	7440-02-0	0.44		NA	
P074	Nickel cyanide	Table CCWE in 268.41	Cyanides (Total)	57-12-5	1.9		110	
			Cyanides (Amenable)	57-12-5	0.10		9.1	
			Nickel	7440-02-0	0.44		NA	
P077	p-Nitroaniline	NA	p-Nitroaniline	100-01-6	0.028	(2)	28	(1)
P082	N-Nitrosodimethylamine	Table 2 in 268.42	N-Nitrosodimethylamine	62-75-9	0.40	(2)	NA	
P089	Parathion	NA	Parathion	56-38-2	0.025		0.1	(1)
P092	Phenylmercury acetate	Table CCWE in 268.41 and Table 2 in 268.42	Mercury	7439-97-6	0.030		NA	
P094	Phorate	NA	Phorate	298-02-2	0.025		0.1	(1)
P097	Famphur	NA	Famphur	52-85-7	0.025		0.1	(1)
P098	Potassium cyanide	NA	Cyanides (Total)	57-12-5	1.9		110	
			Cyanides (Amenable)	57-12-5	0.10		9.1	
P099	Potassium silver cyanide	Table CCWE in 268.41	Cyanides (Total)	57-12-5	1.9		110	
			Cyanides (Amenable)	57-12-5	0.1		9.1	
			Silver	7440-22-4	0.29		NA	
P101	Ethyl cyanide (Propanenitrile)	NA	Ethyl cyanide (Propanenitrile)	107-12-0	0.24	(2)	360	(1)
P103	Selenourea	Table CCWE in 268.41	Selenium	7782-49-2	1.0	(2)	NA	
P104	Silver cyanide	Table CCWE in 268.41	Cyanides (Total)	57-12-5	1.9		110	
			Cyanides (Amenable)	57-12-5	0.10		9.1	
			Silver	7440-22-4	0.29		NA	

P106	Sodium cyanide	NA	Cyanides (Total)	57-12-5	1.9	110	
			Cyanides (Amenable)	57-12-5	0.10	9.1	
P110	Tetraethyl lead	Table CCWE in 268.41 and Table 2 in 268.42	Lead	7439-92-1	0.040	NA	
P113	Thallic oxide	Table 2 in 268.42	Thallium	7440-28-0	0.14	(2)	NA
P114	Thallium selenite	Table CCWE in 268.41	Selenium	7782-49-2	1.0	NA	
P115	Thallium(I)sulfate	Table 2 in 268.42	Thallium	7440-28-0	0.14	(2)	NA
P119	Ammonia vandate	Table 2 in 268.42	Vanadium	7440-62-2	28	(2)	NA
P120	Vanadium pentoxide	Table 2 in 268.42	Vanadium	7440-62-2	28	(2)	NA
P121	Zinc cyanide	NA	Cyanides Total)	57-12-5	1.9	110	
			Cyanides (Amenable)	57-12-5	0.10	9.1	
P123	Toxaphene	NA	Toxaphene	8001-35-1	0.0095	(2)	1.3 (1)
U002	Acetone	NA	Acetone	67-64-1	0.28	160	(1)
U003	Acetonitrile	Table 2 in 268.42	Acetonitrile	75-05-8	0.17	0.17	
U004	Acetophenone	NA	Acetophenone	98-86-2	0.010	(1)	9.7 (1)
U005	2-Acetylaminofluorene	NA	2-Acetylaminofluorene	53-96-3	0.059	(2)	140 (1)
U009	Acrylonitrile	NA	Acrylonitrile	107-13-1	0.24	(2)	84 (1)
U012	Aniline	NA	Aniline	62-53-3	0.81	14	(1)
U018	Benz(a)anthracene	NA	Benz(a)anthracene	56-55-3	0.059	(2)	8.2 (1)
U019	Benzene	NA	Benzene	71-43-2	0.14	(2)	36 (1)
U022	Benzo(a)pyrene	NA	Benzo(a)pyrene	50-32-8	0.061	(2)	8.2 (1)
U024	Bis(2-chloroethoxy)methane	NA	Bis(2-chloroethoxy)methane	111-91-1	0.036	7.2	(1)
U025	Bis(2-chloroethyl)ether	NA	Bis(2-chloroethyl)ether	111-44-4	0.033	7.2	(1)
U027	Bis(2-chloroisopropyl)ether	NA	Bis(2-chloroisopropyl)ether	39638-32-9	0.055	(2)	7.2 (1)
U028	Bis(2-ethylhexyl)phthalate	NA	Bis(2-ethylhexyl)phthalate	117-81-7	0.54	(1)	28 (1)
U029	Bromomethane (Methyl bromide)	NA	Bromomethane (Methyl bromide)	74-83-9	0.11	(1)	15 (1)
U030	4-Bromophenyl phenyl ether	NA	4-Bromophenyl phenyl ether	101-55-3	0.055	(1)	15 (1)
U031	n-Butyl alcohol	NA	n-Butyl alcohol	71-36-3	5.6	2.6	(1)
U032	Calcium chromate	Table CCWE in 268.41	Chromium (Total)	7440-47-32	0.32	NA	
U036	Chlordane (alpha and gamma)	NA	Chlordane (alpha and gamma)	57-74-9	0.0033	(2)	0.13 (1)
U037	Chlorobenzene	NA	Chlorobenzene	108-90-7	0.057	(2)	5.7 (1)
U038	Chlorobenzilate	Table 2 in 268.42	Chlorobenzilate	510-15-6	0.10	(2)	NA
U039	p-Chloro-m-cresol	NA	p-Chloro-m-cresol	59-50-7	0.018	(2)	14 (1)
U042	2-Chloroethyl vinyl	Table 2 in 268.42	2-Chloroethyl vinyl	110-75-8	0.057	NA	
U043	Vinyl chloride	NA	Vinyl chloride	75-01-4	0.27	(2)	33 (1)
U044	Chloroform	NA	Chloroform	67-66-3	0.046	(2)	5.6 (1)
U045	Chloromethane (Methyl chloride)	NA	Chloromethane (Methyl chloride)	74-87-3	0.19	(2)	33 (1)
U047	2-Chloronaphthalene	NA	2-Chloronaphthalene	91-58-7	0.055	(2)	5.6 (1)
U048	2-Chlorophenol	NA	2-Chlorophenol	95-57-8	0.044	(2)	5.7 (1)
U050	Chrysene	NA	Chrysene	218-01-9	0.059	(2)	8.2 (1)
U051	Creosote	Table CCWE in 268.41	Naphthalene	91-20-3	0.031	1.5	(1)
			Pentacholorophenol	87-86-5	0.18	7.4	(1)
			Phenanthrene	85-01-8	0.031	1.5	(1)
			Pyrene	129-00-0	0.028	1.5	(1)
			Toluene	108-88-3	0.028	28	(1)
			Xylenes (Total)		0.032	33	(1)

			Lead	7439-92-1	0.037		NA	
U052	Cresols (Cresylic acid)	NA	o-Cresol	95-48-7	0.11	(2)	5.6	(1)
			Cresols (m- and p- isomers)		0.77	(2)	3.2	(1)
U057	Cyclohexanone	Table 2 in 268.42	Cyclohexanone	108-94-1	0.36		NA	
U060	DDD	NA	o,p'-DDD	53-19-0	0.023		0.087	(1)
			p,p'-DDD	72-54-8	0.023		0.087	(1)
U061	DDT	NA	o,p'-DDT	789-02-6	0.0039	(2)	0.087	(1)
			p,p'-DDT	50-29-3	0.0039	(2)	0.087	(1)
			o,p'-DDD	53-19-0	0.023	(2)	0.087	(1)
			p,p'-DDD	72-54-8	0.023	(2)	0.087	(1)
			o,p'-DDE	3424-82-6	0.031	(2)	0.087	(1)
			p,p'-DDE	72-55-9	0.031	(2)	0.087	(1)
U063	Dibenzo(a,h)anthracene	NA	Dibenzo(a,h)anthracene	53-70-3	0.055	(2)	8.2	(1)
U066	1,2-Dibromo-3-chloropropane	NA	1,2-Dibromo-3-chloropropane	96-12-8	0.11	(2)	15	(1)
U067	1,2-Dibromoethane (Ethylene dibromide)	NA	1,2-Dibromoethane (Ethylene dibromide)	106-93-4	0.028	(2)	15	(1)
U068	Dibromomethane	NA	Dibromomethane	74-95-3	0.11	(2)	15	(1)
U069	Di-n-butyl phthalate	NA	Di-n-butyl phthalate	84-74-2	0.54	(1)	28	(1)
U070	o-Dichlorobenzene	NA	o-Dichlorobenzene	95-50-1	0.088	(2)	6.2	(1)
U071	m-Dichlorobenzene	NA	m-Dichlorobenzene	541-73-1	0.036		6.2	(1)
U072	p-Dichlorobenzene	NA	p-Dichlorobenzene	104-46-7	0.090	(2)	6.2	(1)
U075	Dichlorodifluoromethane	NA	Dichlorodifluoromethane	75-71-8	0.23	(2)	7.2	(1)
U076	1,1-Dichloroethane	NA	1,1-Dichloroethane	75-34-3	0.059	(2)	7.2	(1)
U077	1,2-Dichloroethane	NA	1,2-Dichloroethane	107-06-2	0.21	(2)	7.2	(1)
U078	1,1-Dichloroethylene	NA	1,1-Dichloroethylene	75-35-4	0.025	(2)	33	(1)
U079	1,2-Dichloroethylene	NA	trans-1,2-Dichloroethylene	156-60-5	0.054	(2)	33	(1)
U080	Methylene chloride	NA	Methylene chloride	75-09-2	0.089	(2)	33	(1)
U081	2,4-Dichlorophenol	NA	2,4-Dichlorophenol	120-83-2	0.044	(2)	14	(1)
U082	2,6-Dichlorophenol	NA	2,6-Dichlorophenol	87-65-0	0.044	(2)	14	(1)
U083	1,2-Dichloropropane	NA	1,2-Dichloropropane	78-87-5	0.85	(2)	18	(1)
U084	1,3-Dichloropropene	NA	cis-1,3-Dichloropropylene	10061-01-5	0.036	(2)	18	(1)
			trans-1,3-Dichloropropylene	10061-02-6	0.036	(2)	18	(1)
U088	Diethyl phthalate	NA	Diethyl phthalate	84-66-2	0.54	(2)	28	(1)
U093	p-Dimethylaminoazobenzene	Table 2 in 268.42	p-Dimethylaminoazobenzene	60-11-7	0.13	(2)	NA	
U101	2,4-Dimethylphenol	NA	2,4-Dimethylphenol	105-67-9	0.036	(2)	14	(1)
U102	Dimethyl phthalate	NA	Dimethyl phthalate	131-11-3	0.54	(1)	28	(1)
U105	2,4-Dinitrotoluene	NA	2,4-Dinitrotoluene	121-14-2	0.32	(2)	140	(1)
U106	2,6-Dinitrotoluene	NA	2,6-Dinitrotoluene	606-20-2	0.55	(2)	28	(1)
U107	Di-n-octyl phthalate	NA	Di-n-octyl phthalate	117-84-0	0.54	(1)	28	(1)
U108	1,4-Dioxane	NA	1,4-Dioxane	123-91-1	0.12	(2)	170	(1)
U111	Di-n-propylnitrosoamine	NA	Di-n-propylnitrosoamine	621-64-7	0.40	(2)	14	(1)
U112	Ethyl acetate	NA	Ethyl acetate	141-78-6	0.34	(2)	33	(1)
U117	Ethyl ether	NA	Ethyl ether	60-29-7	0.12	(2)	160	(1)
U118	Ethyl methacrylate	NA	Ethyl methacrylate	97-63-2	0.14	(2)	160	(1)
U120	Fluoranthene	NA	Fluoranthene	206-44-0	0.068	(2)	8.2	(1)
U121	Trichloromonofluoromethane	NA	Trichloromonofluoromethane	75-69-4	0.020	(2)	33	(1)
U127	Hexachlorobenzene	NA	Hexachlorobenzene	118-74-1	0.055	(2)	37	(1)

U128	Hexachlorobutadiene	NA	Hexachlorobutadiene	87-68-3	0.055	(2)	28	(1)
U129	Lindane	NA	alpha-BHC	319-84-6	0.00014	(2)	0.66	(1)
			beta-BHC	319-85-7	0.00014	(2)	0.66	(1)
			Delta-BHC	319-86-8	0.023	(2)	0.66	(1)
			gamma-BHC (Lindane)	58-89-9	0.0017	(2)	0.66	(1)
U130	Hexachlorocyclopentadiene	NA	Hexachlorocyclopentadiene	77-47-7	0.057	(2)	3.6	(1)
U131	Hexachloroethane	NA	Hexachloroethane	67-72-1	0.055	(2)	28	(1)
U134	Hydrogen fluoride	Table 2 in 268.42	Fluoride	16964-48-8	35		NA	
U136	Cacodylic acid	Table CCWE in 268.41	Arsenic	7440-38-2	0.79		NA	
U137	Indeno(1,2,3-c,d)pyrene	NA	Indeno(1,2,3-c,d)pyrene	193-39-5	0.0055	(2)	8.2	(1)
U138	Iodomethane	NA	Iodomethane	74-88-4	0.19	(2)	65	(1)
U140	Isobutyl alcohol	NA	Isobutyl alcohol	78-83-1	5.6		170	(1)
U141	Isosafrole	NA	Isosafrole	120-58-1	0.081		2.6	(1)
U142	Kepone	NA	Kepone	143-50-8	0.0011		0.13	(1)
U144	Lead acetate	Table CCWE in 268.41	Lead	7439-92-1	0.040		NA	
U145	Lead phosphate	Table CCWE in 268.41	Lead	7439-92-1	0.040		NA	
U146	Lead subacetate	Table CCWE in 268.41	Lead	7439-92-1	0.040		NA	
U151	Mercury	Table CCWE in 268.41 and Table 2 in 268.42	Mercury	7439-97-6	0.030		NA	
U152	Methacrylonitrile	NA	Methacrylonitrile	126-98-7	0.24	(2)	84	(1)
U154	Methanol		Methanol	67-56-1	5.6		NA	
U155	Methapyrilene	NA	Methapyrilene	91-80-5	0.081		1.5	(1)
U157	3-Methylcholanthrene	NA	3-Methylcholanthrene	56-49-5	0.0055	(2)	15	(1)
U158	4,4'-Methylenebis(2-chloroaniline)	NA	4,4'-Methylenebis(2-chloroaniline)	101-14-4	0.50	(2)	35	(1)
U159	Methyl ethyl ketone	NA	Methyl ethyl ketone	78-93-3	0.28		36	(1)
U161	Methyl isobutyl ketone	NA	Methyl isobutyl ketone	108-10-1	0.14		33	(1)
U162	Methyl methacrylate	NA	Methyl methacrylate	80-62-6	0.14		160	(1)
U165	Naphthalene	NA	Naphthalene	91-20-3	0.059	(2)	3.1	(1)
U168	2-Naphthylamine	Table 2 in 268.42	2-Naphthylamine	91-59-8	0.52	(2)	NA	
U169	Nitrobenzene	NA	Nitrobenzene	98-95-3	0.068	(2)	14	(1)
U170	4-Nitrophenol	NA	4-Nitrophenol	100-02-7	0.12	(2)	29	(1)
U172	N-Nitrosodi-n-butylamine	NA	N-Nitrosodi-n-butylamine	924-16-3	0.40	(2)	17	(1)
U174	N-Nitrosodiethylamine	NA	N-Nitrosodiethylamine	55-18-5	0.40	(2)	28	(1)
U179	N-Nitrosopiperidine	NA	N-Nitrosopiperidine	100-75-4	0.013	(2)	35	(1)
U180	N-Nitrosopyrrolidine	NA	N-Nitrosopyrrolidine	930-55-2	0.013	(2)	35	(1)
U181	5-Nitro-o-toluidine	NA	5-Nitro-o-toluidine	99-55-8	0.32	(2)	28	(1)
U183	Pentachlorobenzene	NA	Pentachlorobenzene	608-93-5	0.055	(2)	37	(1)
U185	Pentachloronitrobenzene	NA	Pentachloronitrobenzene	82-68-8	0.055	(2)	4.8	(1)
U187	Phenacetin	NA	Phenacetin	62-44-2	0.081		16	(1)
U188	Phenol	NA	Phenol	108-95-2	0.039		6.2	(1)
U190	Phthalic anhydride (measured as Phthalic acid)	NA	Phthalic anhydride (measured as Phthalic acid)	85-44-9	0.54	(1)	28	(1)
U192	Pronamide	NA	Pronamide	23950-58-5	0.093		1.5	(1)
U196	Pyridine	NA	Pyridine	110-86-1	0.014	(2)	16	(1)
U203	Safrole	NA	Safrole	94-59-7	0.081		22	(1)
U204	Selenium dioxide	Table CCWE in 268.41	Selenium	7782-49-2	1.0		NA	

U205	Selenium sulfide	Table CCWE in 268.41	Selenium	7782-49-2	1.0		NA	
U207	1,2,4,5-Tetrachlorobenzene	NA	1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	(2)	19	(1)
U208	1,1,1,2-Tetrachloroethane	NA	1,1,1,2-Tetrachloroethane	630-20-6	0.057		42	(1)
U209	1,1,2,2-Tetrachloroethane	NA	1,1,2,2-Tetrachloroethane	79-34-5	0.057	(2)	42	(1)
U210	Tetrachloroethylene	NA	Tetrachloroethylene	127-18-4	0.056	(2)	5.6	(1)
U211	Carbon tetrachloride	NA	Carbon tetrachloride	56-23-5	0.057	(2)	5.6	(1)
U214	Thallium(I)acetate	Table 2 in 268.42	Thallium	7440-28-0	0.14	(2)	NA	
U215	Thallium(I) carbonate	Table 2 in 268.42	Thallium	7440-28-0	0.14	(2)	NA	
U216	Thallium(I)chloride	Table 2 in 268.42	Thallium	7440-28-0	0.14	(2)	NA	
U217	Thallium(I)nitrate	Table 2 in 268.42	Thallium	7440-28-0	0.14	(2)	NA	
U220	Toluene	NA	Toluene	108-88-3	0.080	(2)	28	(1)
U225	Tribromomethane (Bromoform)	NA	Tribromomethane (Bromoform)	75-25-2	0.63	(2)	15	(1)
U226	1,1,1-Trichloroethane	NA	1,1,1-Trichloroethane	71-55-6	0.054	(2)	5.6	(1)
U227	1,1,2-Trichloroethane	NA	1,1,2-Trichloroethane	79-00-5	0.054	(2)	5.6	(1)
U228	Trichloroethylene	NA	Trichloroethylene	79-01-6	0.054	(2)	5.6	(1)
U235	tris-(2,3-Dibromopropyl) phosphate	NA	tris-(2,3-Dibromopropyl) phosphate	126-72-7	0.025		0.10	(1)
U239	Xylenes	NA	Xylenes		0.32	(2)	28	(1)
U240	2,4-Dichlorophenoxyacetic acid	NA	2,4-Dichlorophenoxyacetic acid	94-75-7	0.72		10	(1)
U243	Hexachloropropene	NA	Hexachloropropene	1888-71-7	0.035	(2)	28	
U247	Methoxychlor	NA	Methoxychlor	72-43-5	0.25	(2)	0.18	(1)

FOOTNOTE: [1]Treatment standards for this organic constituent were established based upon incineration in units operated in accordance with the technical requirements of 40 CFR part 264 subpart O or part 265 subpart O, or based upon combustion in fuel substitution units operating in accordance with applicable technical requirements. A facility may certify compliance with these treatment standards according to provisions in 40 CFR Section 268.7.

FOOTNOTE: [2]Based on analysis of composite samples.
FOOTNOTE: [3]As analyzed using SW-846 Method 9010 or 9012; sample size 10 gram; distillation time: one hour and fifteen minutes.
FOOTNOTE: [4]Reseved.

Note: NA means Not Applicable.

No Land Disposal for:

K005 Nonwastewaters generated by the process described in the waste listing description, and disposed after June 8, 1989, and not generated in the course of treating wastewater forms of these wastes. (Based on No Generation)

K007 Nonwastewaters generated by the process described in the waste listing description, and disposed after June 8, 1989, and not generated in the course of treating wastewater forms of these wastes. (Based on No Generation)

K021 Nonwastewater forms of these wastes generated by the process described in the waste listing description and disposed after August 17, 1988, and not generated in the course of treating wastewater forms of these wastes (Based on No Generation)

K025 Nonwastewater forms of these wastes generated by the process described in the waste listing description and disposed after August 17, 1988, and not generated in the course of treating wastewater forms of these wastes (Based on No Generation)

K036 Nonwastewater forms of these wastes generated by the process described in the waste listing description and disposed after August 17, 1988, and not generated in the course of treating wastewater forms of these wastes (Based on No Generation)

K044 (Based on Reactivity)

K045 (Based on Reactivity)

K047 (Based on Reactivity)

K060 Nonwastewater forms of these wastes generated by the process described in the waste listing description and disposed after August 17, 1988, and not generated in the course of treating wastewater forms of these wastes (Based on No Generation)

K061 Nonwastewaters -- High Zinc Subcategory (greater than or equal to 15% total zinc) (Based on Recycling): effective 8/8/90

K069 Non-Calcium Sulfate Subcategory -- Nonwastewater forms of these wastes generated by the process described in the waste listing description and disposed after August 17, 1988, and not generated in the course of treating wastewater forms of these wastes (Based on Recycling)

K100 Nonwastewater forms of those wastes generated by the process described in the waste listing description and disposed after August 17, 1988, and not generated in the course of treating wastewater forms of these wastes (Based on No Generation)

(b) When wastes with differing treatment standards for a constituent of concern are combined for purposes of treatment, the treatment residue must meet the lowest treatment standard for the constituent of concern.

(c) Notwithstanding the prohibitions specified in paragraph (a) of this section, treatment and disposal facilities may demonstrate (and certify pursuant to § 268.7(b)(5)) compliance with the treatment standards for organic constituents specified by a footnote in Table CCW in this section, provided the following conditions are satisfied:

(1) The treatment standards for the organic constituents were established based on incineration in units operated in accordance with the technical requirements of 40 CFR part 264, subpart O, or part 265, subpart O, or based on combustion in fuel substitution units operating in accordance with applicable technical requirements;

(2) The treatment or disposal facility has used the methods referenced in paragraph (c)(1) of this section to treat the organic constituents; and

(3) The treatment or disposal facility has been unable to detect the organic constituents despite using its best good-faith efforts as defined by applicable Agency guidance or standards. Until such guidance or standards are developed, the treatment or disposal facility may demonstrate such good-faith efforts by achieving detection limits for the regulated organic constituents that do not exceed an order of magnitude of the treatment standards specified in this section.

[53 FR 31218, Aug. 17, 1988, as amended at 54 FR 26649, June 23, 1989; 55 FR 22701, June 1, 1990; 56 FR 3892, Jan. 31, 1991]

§ 268.44 Variance from a treatment standard.

(a) Where the treatment standard is expressed as a concentration in a waste or waste extract and a waste cannot be treated to the specified level, or where the treatment technology is not appropriate to the waste, the generator or treatment facility may petition the Administrator for a variance from the treatment standard. The petitioner must demonstrate that because the physical or chemical properties of the waste differs significantly from wastes analyzed in developing the treatment standard, the waste cannot be treated to specified levels or by the specified methods.

(b) Each petition must be submitted in accordance with the procedures in § 260.20.

(c) Each petition must include the following statement signed by the petitioner or an authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(d) After receiving a petition for variance from a treatment standard, the Administrator may request any additional information or samples which he may require to evaluate the petition. Additional copies of the complete petition may be requested as needed to send to affected states and Regional Offices.

(e) The Administrator will give public notice in the Federal Register of the intent to approve or deny a petition and provide an opportunity for public comment. The final decision on a variance from a treatment standard will be published in the Federal Register.

(f) A generator, treatment facility, or disposal facility that is managing a waste covered by a variance from the treatment standards must comply with the waste analysis requirements for restricted wastes found under § 268.7.

(g) During the petition review process, the applicant is required to comply with all restrictions on land disposal under this part once the effective date for the waste has been reached.

(h) Where the treatment standard is expressed as a concentration in a waste or waste extract and a waste generated under conditions specific to only one site cannot be treated to the specified level, or where the treatment technology is not appropriate to the waste, the generator or treatment facility may apply to the Administrator, or his delegated representative, for a site-specific variance from a treatment standard. The applicant for a site-specific variance must demonstrate that because the physical or chemical properties of the waste differs significantly from the waste analyzed in developing the treatment standard, the waste cannot be treated to specified levels or by the specified methods.

(i) Each application for a site-specific variance from a treatment standard must include the information in § 260.20(b)(1)-(4);

(j) After receiving an application for a site-specific variance from a treatment standard, the Assistant Administrator, or his delegated representative, may request any additional information or samples which may be required to evaluate the application.

(k) A generator, treatment facility, or disposal facility that is managing a waste covered by a site-specific variance from a treatment standard must comply with the waste analysis requirements for restricted wastes found under § 268.7.

(l) During the application review process, the applicant for a site-specific variance must comply with all restrictions on land disposal under this part once the effective date for the waste has been reached.

(m)-(n) [Reserved]

(o) The following facilities are excluded from the treatment standard under § 268.43(a), Table CCW, and are subject to the following constituent concentrations:

TABLE-WASTES EXCLUDED FROM THE TREATMENT STANDARDS UNDER § 268.43(a)

Facility name[1] and address	Waste code	See also	Regulated hazardous constituent	Wastewaters		Nonwastewaters	
				Concentration (mg/l)	Notes	Concentration (mg/kg)	Notes
Craftsman Plating and Tinning, Corp., Chicago, IL.	F006	Table CCWE in 268.41	Cyanides (Total)	1.2	([2])	1800	([4])
			Cyanides (Amenable)	.86	([2] and [3])	30	([4])
			Cadmium	1.6		NA	
			Chromium	.32		NA	
			Lead	.040		NA	
			Nickel	.44		NA	
Northwestern Plating Works, Inc., Chicago, IL.	F006	Table CCWE in 268.41	Cyanides (Total)	1.2	([2] and [3])	970	([4])
			Cyanides (Amenable)	.86	([2])	30	([4])
			Cadmium	1.6		NA	

Chromium	.32	NA
Lead	.040	NA
Nickel	.44	NA

FOOTNOTE: ([1])-A facility may certify compliance with these treatment standards according to provisions in 40 CFR 268.7.

FOOTNOTE: ([2])-Cyanide Wastewater Standards for F006 are based on analysis of composite samples.

FOOTNOTE: ([3])-These facilities must comply with 0.86 mg/l for amenable cyanides in the wastewater exiting the alkaline chlorination system. These facilities must also comply with 40 CFR § 268.7.a.4 for appropriate monitoring frequency consistent with the facilities' waste analysis plan.

FOOTNOTE: ([4])-Cyanide nonwastewaters are analyzed using SW-846 Method 9010 or 9012, sample size 10 grams, distillation time, 1 hour and 15 minutes.

Note: NA means Not Applicable.

[51 FR 40642, Nov. 7, 1986; 52 FR 21017, June 4, 1987, as amended at 53 FR 31221, Aug. 17, 1988; 54 FR 36972, Sept. 6, 1989; 56 FR 12355, Mar. 25, 1991]

Subpart E -- Prohibitions on Storage

§ 268.50 Prohibitions on storage of restricted wastes.

(a) Except as provided in this section, the storage of hazardous wastes restricted from land disposal under subpart C of this part of RCRA section 3004 is prohibited, unless the following conditions are met:

(1) A generator stores such wastes in tanks or containers on-site solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and the generator complies with the requirements in § 262.34 of this chapter. (A generator who is in existence on the effective date of a regulation under this part and who must store hazardous wastes for longer than 90 days due to the regulations under this part becomes an owner/operator of a storage facility and must obtain a RCRA permit. Such a facility may qualify for interim status upon compliance with the regulations governing interim status under 40 CFR 270.70).

(2) An owner/operator of a hazardous waste treatment, storage, or disposal facility stores such wastes in tanks or containers solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and:

(i) Each container is clearly marked to identify its contents and the date each period of accumulation begins;

(ii) Each tank is clearly marked with a description of its contents, the quantity of each hazardous waste received, and the date each period of accumulation begins, or such information for each tank is recorded and maintained in the operating record at that facility. Regardless of whether the tank itself is marked, an owner/operator must comply with the operating record requirements specified in § 264.73 or § 265.73.

(3) A transporter stores manifested shipments of such wastes at a transfer facility for 10 days or less.

(b) An owner/operator of a treatment, storage or disposal facility may store such wastes for up to one year unless the Agency can demonstrate that such storage was not solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.

(c) A owner/operator of a treatment, storage or disposal facility may store such wastes beyond one year; however, the owner/operator bears the burden of proving that such storage was solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.

(d) If a generator's waste is exempt from a prohibition on the type of land disposal utilized for the waste (for example, because of an approved case-by-case extension under § 268.5, an approved § 268.6 petition, or a national capacity variance under subpart C), the prohibition in paragraph (a) of this section does not apply during the period of such exemption.

(e) The prohibition in paragraph (a) of this section does not apply to hazardous wastes that meet the treatment standards specified under §§ 268.41, 268.42, and 268.43 or the treatment standards specified under the variance in § 268.44, or, where treatment standards have not been specified, is in compliance with the applicable prohibitions specified in § 268.32 or RCRA section 3004.

(f) Liquid hazardous wastes containing polychlorinated biphenyls (PCBs) at concentrations greater than or equal to 50 ppm must be stored at a facility that meets the requirements of 40 CFR 761.65(b) and must be removed from storage and treated or disposed as required by this part within one year of the date when such wastes are first placed into storage. The provisions of paragraph (c) of this section do not apply to such PCB wastes prohibited under § 268.32 of this part.

[51 FR 40642, Nov. 7, 1986; 52 FR 21017, June 4, 1987, as amended at 52 FR 25791, July 8, 1987; 54 FR 36972, Sept. 6, 1989]

Appendix I -- Toxicity Characteristic Leaching Procedure (TCLP)

Note: The TCLP is published in Appendix II of part 261.

[55 FR 11876, Mar. 29, 1990]

Appendix II -- Treatment Standards (As Concentrations in the Treatment Residual Extract)

[Note: The technologies shown are the basis of the treatment standards. They are not required to be used in meeting the treatment standards]

Waste Treatability Groups For F001-F005 Spent Solvent Wastes (mg/l)

Constitutents of F001-F005 Spent Solvent Wastes	Wastewater	Technology Basis[1]	Wastewater Generated by Pharmaceutical Plant[2]	All Other[3]
Acetone	0.05	SS		0.59
n-Butyl Alcohol	5.00	SS		5.00
Carbon disulfide	1.05	SS		4.81
Carbon tetrachloride	0.05	B		0.96
Chlorobenzene	0.15	B&AC		0.05
Cresols (cresylic acid)	2.82	AC		0.75
Cyclohexanone	0.125	SS		0.75
1,2-Dichlorobenzene	0.65	B&AC		0.125
Ethyl acetate	0.05	SS		0.75
Ethylbenzene	0.05	B		0.053
Ethyl ether	0.05	SS		0.75
Isobutanol	5.00	SS		5.00
Methanol	0.25	SS		0.75
Methylene chloride	0.20	B	12.7	0.96
Methyl ethyl ketone	0.05	SS		0.75
Methyl isobutyl ketone	0.05	SS		0.33
Nitrobenzene	0.66	SS&AC		0.125
Pyridine	1.12	B&AC		0.33
Tetrachloroethylene	0.079	B		0.05
Toluene	1.12	B&AC		0.33
1,1,1-Trichloroethane	1.05	SS		0.41
1,1,2-Trichloro-1,2,2-trifluoroethane	1.05	SS		0.96
Trichloroethylene	1.062	B&AC		0.091
Trichlorofluoromethane	1.05	B		0.96
Xylene	1.05	AC		0.15

FOOTNOTE: [1]In some instances other technologies achieved somewhat lower treatment values but waste characterization data were insufficient to identify separate treatability groups. Refer to the BDAT background document for a detailed explanation of the determination of the treatment standards.
SS=steam stripping
B=biological treatment
AC=activated carbon

FOOTNOTE: [2]Wastewaters generated by pharmaceutical plants must be treated to the standards given for all other wastewaters except in the case of methylene chloride.

FOOTNOTE: [3]The treatment standards in this treatability group are based on incineration.

[51 FR 40653, Nov. 7, 1986]

Appendix III - List of Halogenated Organic Compounds Regulated Under § 268.32

In determining the concentration of HOCs in a hazardous waste for purposes of the § 268.32 land disposal prohibition, EPA has defined the HOCs that must be included in the calculation as any compounds having a carbon-halogen bond which are listed in this Appendix (see § 268.2). Appendix III to Part 268 consists of the following compounds:

Volatiles

- Bromodichloromethane
- Bromomethane
- Carbon Tetrachloride
- Chlorobenzene
- 2-Chloro-1,3-butadiene
- Chlorodibromomethane
- Chloroethane
- 2-Chloroethyl vinyl ether
- Chloroform
- Chloromethane
- 3-Chloropropene
- 1,2-Dibromo-3-chloropropane
- 1,2-Dibromomethane
- Dibromomethane
- Trans-1,4-Dichloro-2-butene
- Dichlorodifluoromethane
- 1,1-Dichloroethane
- 1,2-Dichloroethane
- 1,1-Dichloroethylene
- Trans-1,2-Dichloroethene
- 1,2-Dichloropropane
- Trans-1,3-Dichloropropene
- cis-1,3-Dichloropropene
- Iodomethane
- Methylene chloride
- 1,1,1,2-Tetrachloroethane
- 1,1,2,2-Tetrachloroethane
- Tetrachloroethene
- Tribromomethane
- 1,1,1-Trichloroethane
- 1,1,2-Trichloroethane
- Trichloroethene
- Trichloromonofluoromethane
- 1,2,3-Trichloropropane
- Vinyl chloride

Semivolatiles

- Bis(2-chloroethoxy)ethane
- Bis(2-chloroethyl)ether
- Bis(2-chloroisopropyl) ether
- p-Chloroaniline
- Chlorobenzilate
- p-Chloro-m-cresol
- 2-Chloronaphthalene
- 2-Chlorophenol
- 3-Chloropropionitrile
- m-Dichlorobenzene
- o-Dichlorobenzene
- p-Dichlorobenzene
- 3,3'-Dichlorobenzidine
- 2,4-Dichlorophenol
- 2,6-Dichlorophenol
- Hexachlorobenzene
- Hexachlorobutadiene
- Hexachlorocyclopentadiene
- Hexachloroethane
- Hexachloroprophene

Hexachloropropene
4,4'-Methylenebis(2-chloroaniline)
Pentachlorobenzene
Pentachloroethane
Pentachloronitrobenzene
Pentachlorophenol
Pronamide
1,2,4,5-Tetrachlorobenzene
2,3,4,6-Tetrachlorophenol
1,2,4-Trichlorobenzene
2,4,5-Trichlorophenol
2,4,6-Trichlorophenol
Tris(2,3-dibromopropyl)phosphate

Organochlorine Pesticides

Aldrin
alpha-BHC
beta-BHC
delta-BHC
gamma-BHC
Chlordane
DDD
DDE
DDT
Dieldrin
Endosulfan I
Endosulfan II
Endrin
Endrin aldehyde
Heptachlor
Heptachlor epoxide
Isodrin
Kepone
Methoxyclor
Toxaphene

Phenoxyacetic Acid Herbicides

2,4-Dichlorophenoxyacetic acid
Silvex
2,4,5-T

PCBs

Aroclor 1016
Aroclor 1221
Aroclor 1232
Aroclor 1242
Aroclor 1248
Aroclor 1254
Aroclor 1260
PCBs not otherwise specified

Dioxins and Furans

Hexachlorodibenzo-p-dioxins
Hexachlorodibenzofuran
Pentachlorodibenzo-p-dioxins
Pentachlorodibenzofuran
Tetrachlorodibenzo-p-dioxins
Tetrachlorodibenzofuran
2,3,7,8-Tetrachlorodibenzo-p-dioxin

[52 FR 25791, July 8, 1987]

Appendix IV-Organometallic Lab Packs

Hazardous waste with the following EPA Hazardous Waste Code No. may be placed in an "organometallic" or "appendix IV lab pack:"

P001, P002, P003, P004, P005, P006, P007, P008, P009, P013,
P014, P015, P016, P017, P018, P020, P021, P022, P023, P024,
P026, P027, P028, P029, P030, P031, P033, P034, P036, P037,
P038, P039, P040, P041, P042, P043, P044, P045, P046, P047,
P048, P049, P050, P051, P054, P056, P057, P058, P059, P060,
P062, P063, P064, P065, P066, P067, P068, P069, P070, P071,
P072, P073, P074, P075, P077, P081, P082, P084, P085, P087,
P088, P089, P092, P093, P094, P095, P096, P097, P098, P099,
P101, P102, P103, P104, P105, P106, P108, P109, P110, P111,
P112, P113, P114, P115, P116, P118, P119, P120, P121, P122,
P123.
U001, U002, U003, U004, U005, U006, U007, U008, U009, U010,
U011, U012, U014, U015, U016, U017, U018, U019, U020, U021,
U022, U023, U024, U025, U026, U027, U028, U029, U030, U031,
U032, U033, U034, U035, U036, U037, U038, U039, U041, U042,
U043, U044, U045, U046, U047, U048, U049, U050, U051, U052,
U053, U055, U056, U057, U058, U059, U060, U061, U062, U063,
U064, U066, U067, U068, U069, U070, U071, U072, U073, U074,
U075, U076, U077, U078, U079, U080, U081, U082, U083, U084,
U085, U086, U087, U088, U089, U090, U091, U092, U093, U094,
U095, U096, U097, U098, U099, U101, U102, U103, U105, U106,
U107, U108, U109, U110, U111, U112, U113, U114, U115, U116,
U117, U118, U119, U120, U121, U122, U123, U124, U125, U126,
U127, U128, U129, U130, U131, U132, U133, U136, U137, U138,
U140, U141, U142, U143, U144, U145, U146, U147, U148, U149,
U150, U152, U153, U154, U155, U156, U157, U158, U159, U160,
U161, U162, U163, U164, U165, U166, U167, U168, U169, U170,
U171, U172, U173, U174, U176, U177, U178, U179, U180, U181,
U182, U183, U184, U185, U186, U187, U188, U189, U190, U191,
U192, U193, U194, U196, U197, U200, U201, U202, U203, U204,
U205, U206, U207, U208, U209, U210, U211, U213, U214, U215,
U216, U217, U218, U219, U220, U221, U222, U223, U225, U226,
U227, U228, U234, U235, U236, U237, U238, U239, U240, U243,
U244, U246, U247, U248, U249.
F001, F002, F003, F004, F005, F006, F010, F020, F021, F022,
F023, F024, F025, F026, F027, F028, F039.
K001, K002, K008, K009, K010, K011, K013, K014, K015, K016,
K017, K018, K019, K020, K021, K022, K023, K024, K025, K026,
K027, K028, K029, K030, K031, K032, K033, K034, K035, K036,
K037, K038, K039, K040, K041, K042, K043, K044, K045, K046,
K047, K048, K049, K050, K051, K052, K060, K061, K069, K071,
K073, K083, K084, K085, K086, K087, K093, K094, K095, K096,
K097, K098, K099, K101, K102, K103, K104, K105, K113, K114,
K115, K116.
D001, D002, D003, D004, D005, D006, D007, D008, D010, D011,
D012, D013, D014, D015, D016, D017.

[56 FR 3911, Jan. 31, 1991]

Appendix V-Organic Lab Packs

Hazardous waste with the following EPA Hazardous Waste Code No. may be placed in an "organic" or "Appendix V" lab pack:

P001, P002, P003, P004, P005, P007, P008, P009, P014, P016,
P017, P018, P020, P021, P022, P023, P024, P026, P027, P028,

P030, P031, P033, P034, P037, P039, P040, P041, P042, P043,
P044, P045, P046, P047, P048, P049, P050, P051, P054, P057,
P058, P059, P060, P062, P063, P064, P066, P067, P068, P069,
P070, P071, P072, P075, P077, P081, P082, P084, P085, P088,
P089, P093, P094, P095, P097, P098, P101, P102, P105, P106,
P108, P109, P111, P112, P116, P118, P123.
U001, U002, U003, U004, U005, U006, U007, U008, U009, U010,
U011, U012, U014, U015, U016, U017, U018, U019, U020, U021,
U022, U023, U024, U025, U026, U027, U028, U029, U030, U031,
U033, U034, U035, U036, U037, U038, U039, U041, U042, U043,
U044, U045, U046, U047, U048, U049, U050, U052, U053, U055,
U056, U057, U058, U059, U060, U061, U062, U063, U064, U066,
U067, U068, U069, U070, U071, U072, U073, U074, U075, U076,
U077, U078, U079, U080, U081, U082, U083, U084, U085, U086,
U087, U088, U089, U090, U091, U092, U093, U094, U095, U096,
U097, U098, U099, U101, U102, U103, U105, U106, U107, U108,
U109, U110, U111, U112, U113, U114, U115, U116, U117, U118,
U119, U120, U121, U122, U123, U124, U125, U126, U127, U128,
U129, U130, U131, U132, U133, U135, U137, U138, U140, U141,
U142, U143, U147, U148, U149, U150, U152, U153, U154, U155,
U156, U157, U158, U159, U160, U161, U162, U163, U164, U165,
U166, U167, U168, U169, U170, U171, U172, U173, U174, U176,
U177, U178, U179, U180, U181, U182, U183, U184, U185, U186,
U187, U188, U189, U190, U191, U192, U193, U194, U196, U197,
U200, U201, U202, U203, U206, U207, U208, U209, U210, U211,
U213, U218, U219, U220, U221, U222, U223, U225, U226, U227,
U228, U234, U235, U236, U237, U238, U239, U240, U243, U244,
U246, U247, U248, U249.
F001, F002, F003, F004, F005, F010, F020, F021, F022, F023,
F025, F026, F027, F028.
K009, K010, K011, K013, K014, K016, K017, K018, K019, K020,
K023, K024, K025, K026, K027, K029, K030, K032, K033, K034,
K035, K036, K037, K038, K039, K040, K041, K042, K043, K044,
K045, K047, K060, K073, K085, K093, K094, K095, K096, K097,
K098, K099, K103, K104, K105, K113, K114, K116.
D001, D012, D013, D014, D015, D016, D017.

[56 FR 3912, Jan. 31, 1991]

Appendix VI -- Recommended Technologies to Achieve Deactivation of Characteristics in Section 268.42

The treatment standard for many subcategories of D001, D002, and D003 wastes as well as for K044, K045, and K047 wastes is listed in 268.42 simply as ``Deactivation to remove the characteristics of ignitability, corrosivity, and reactivity''. EPA has determined that many technologies, when used alone or in combination, can achieve this standard. The following appendix presents a partial list of these technologies, utilizing the five letter technology codes established in 40 CFR 268.42 Table 1. Use of these specific technologies is not mandatory and does not preclude direct reuse, recovery, and/or the use of other pretreatment technologies provided deactivation is achieved and these alternative methods are not performed in units designated as land disposal.

Waste code/subcategory	Nonwastewaters	Wastewaters
D001 Ignitable Liquids based on 261.21(a)(1) -- Low TOC Nonwastewater Subcategory (containing 1% to <10% TOC)	RORGS INCIN WETOX CHOXD BIODG	n.a.
D001 Ignitable Liquids based on 261.21(a)(1) -- Ignitable Wastewater Subcategory (containing <1% TOC)	n.a.	RORGS INCIN WETOX CHOXD BIODG
D001 Compressed Gases based on 261.21(A)(3)	RCGAS INCIN	n.a.

	FSUBS ADGAS fb. INCIN ADGAS fb. (CHOXD; or CHRED)	
D001 Ignitable Reactives based on 261.21(a)(2)	WTRRX	n.a.
	CHOXD	
	CHRED	
	STABL	
	INCIN	
D001 Ignitable Oxidizers based on 261.21(a)(4)	CHRED	CHRED
	INCIN	INCIN
D002 Acid Subcategory based on 261.22(a)(1) with pH less than or equal to 2	RCORR	NEUTR
	NEUTR	INCIN
	INCIN	
D002 Alkaline Subcategory based on 261.22(a)(1) with pH greater than or equal to 12.5	NEUTR	NEUTR
	INCIN	INCIN
D002 Other Corrosives based on 261.22(a)(2)	CHOXD	CHOXD
	CHRED	CHRED
	INCIN	INCIN
	STABL	
D003 Water Reactives based on 261.23(a) (2), (3), and (4)	INCIN	n.a.
	WTRRX	
	CHOXD	
	CHRED	
D003 Reactive Sulfides based on 261.23(a)(5)	CHOXD	CHOXD
	CHRED	CHRED
	INCIN	BIODG
	STABL	INCIN
D003 Explosives based on 261.23(a) (6), (7), and (8)	INCIN	INCIN
	CHOXD	CHOXD
	CHRED	CHRED
		BIODG
		CARBN
D003 Other Reactives based on 261.23(a)(1)	INCIN	INCIN
	CHOXD	CHOXD
	CHRED	CHRED
		BIODG
		CARBN
K044 Wastewater treatment sludges from the manufacturing and processing of explosives	CHOXD	CHOXD
	CHRED	CHRED
	INCIN	BIODG
		CARBN
		INCIN
K045 Spent carbon from the treatment of wastewaters containing explosives	CHOXD	CHOXD
	CHRED	CHRED
	INCIN	BIODG
		CARBN
		INCIN
K047 Pink/red water from TNT operations	CHOXD	CHOXD
	CHRED	CHRED
	INCIN	BIODG
		CARBN
		INCIN

FOOTNOTE: Note: ``n.a.'' stands for ``not applicable''; ``fb.'' stands for ``followed by''.

[55 FR 22714, June 1, 1990]

Appendix VII

Table 1.-Effective Dates of Surface Disposed Wastes (Non-Soil and Debris) Regulated in the LDRs[a] - Comprehensive List

Waste code	Waste category	Effective date
California list	Liquid hazardous wastes, including free liquids associated with solid or sludge, containing free cyanides at concentrations greater than or equal to 1,000 mg/l or certain metals or compounds of these metals greater than or equal to the prohibition levels	July 8, 1987.
California list	Liquid (aqueous) hazardous wastes having a pH less than or equal to 2	July 8, 1987.
California list	Dilute HOC wastewaters, defined as HOC-waste mixtures that are primarily water and that contain greater than or equal to 1,000 mg /l but less than 10,000 mg/l	July 8, 1987.
California list	Liquid hazardous waste containing PCBs greater than or equal to 50 ppm	July 8, 1987.
California list	Other liquid and nonliquid hazardous wastes containing HOCs in total concentration greater than or equal to 1,000 mg	Nov. 8, 1988.
D001	All	Aug. 8, 1990.
D002	All	Aug. 8, 1990.
D003	All	Aug. 8, 1990.
D004	Wastewater	Aug. 8, 1990.
D004	Nonwastewater	May 8, 1992.
D005	All	Aug. 8, 1990.
D006	All	Aug. 8, 1990.
D007	All	Aug. 8, 1990.
D008	Lead materials before secondary smelting	May 8, 1992.
D008	All others	Aug. 8, 1990.
D009	Nonwastewater	May 8, 1992.
D009	All others	Aug. 8, 1990.
D010	All	Aug. 8, 1990.
D011	All	Aug. 8, 1990.
D012	All	Aug. 8, 1990.
D013	All	Aug. 8, 1990.
D014	All	Aug. 8, 1990.
D015	All	Aug. 8, 1990.
D016	All	Aug. 8, 1990.
D017	All	Aug. 8, 1990.
F001	Small quantity generators, CERCLA response/RCRA corrective action, initial generator's solvent-water mixtures, solvent-containing sludges and solids	Nov. 8, 1988.
F001	All others	Nov. 8, 1986.
F002 (1,1,2-trichloroethane)	Wastewater and Nonwastewater	Aug. 8, 1990.
F002	Small quantity generators, CERCLA response/RCRA corrective action, initial generator's solvent-water mixtures, solvent-containing sludges and solids	Nov. 8, 1988.
F002	All others	Nov. 8, 1986.
F003	Small quantity generators, CERCLA response/RCRA corrective action, initial generator's solvent-water mixtures, solvent-containing sludges and solids	Nov. 8, 1988.
F003	All others	Nov. 8, 1986.
F004	Small quantity generators, CERCLA response/RCRA corrective action, initial generator's solvent-water mixtures, solvent-containing sludges and solids	Nov. 8, 1988.
F004	All others	Nov. 8, 1986.
F005 (benzene, 2-ethoxy ethanol, 2-nitropropane)	Wastewater and Nonwastewater	Aug. 8, 1990.
F005	Small quantity generators, CERCLA response/RCRA corrective action, initial generator's solvent-water mixtures, solvent-containing sludges and solids	Nov. 8, 1988.
F005	All others	Nov. 8, 1986.
F006	Wastewater	Aug. 8, 1990.
F006	Nonwastewater	Aug. 8, 1988.
F006 (cyanides)	Nonwastewater	July 8, 1989.
F007	All	July 8, 1989.
F008	All	July 8, 1989.
F009	All	July 8, 1989.
F010	All	June 8, 1989.

F011 (cyanides)	Nonwastewater	Dec. 8, 1989.
F011	All others	July 8, 1989.
F012 (cyanides)	Nonwastewater	Dec. 8, 1989.
F012	All others	July 8, 1989.
F019	All	Aug. 8, 1990.
F020	All	Nov. 8, 1988.
F021	All	Nov. 8, 1988.
F022	All	Nov. 8, 1988.
F023	All	Nov. 8, 1988.
F024 (metals)	Wastewater	June 8, 1989.
F024 (metals)	Nonwastewater	Aug. 8, 1990.
F024[b]	All others	June 8, 1989.
F025	All	Aug. 8, 1990.
F026	All	Nov. 8, 1988.
F027	All	Nov. 8, 1988.
F028	All	Nov. 8, 1988.
F039	Wastewater	Aug. 8, 1990.
F039	Nonwastewater	May 8, 1992.
K001 (organics)[b]	All	Aug. 8, 1988.
K001	All others	Aug. 8, 1988.
K002	All	Aug. 8, 1990.
K003	All	Aug. 8, 1990.
K004	Wastewater	Aug. 8, 1990.
K004[c]	Nonwastewater	Aug. 8, 1988.
K005	Wastewater	Aug. 8, 1990.
K005[c]	Nonwastewater	June 8, 1989.
K006	All	Aug. 8, 1990.
K007	Wastewater	Aug. 8, 1990.
K007[c]	Nonwastewater	June 8, 1989.
K008	Wastewater	Aug. 8, 1990.
K008[c]	Nonwastewater	Aug. 8, 1988.
K009	All	June 8, 1989.
K010	All	June 8, 1989.
K011	Wastewater	Aug. 8, 1990.
K011	Nonwastewater	June 8, 1989.
K013	Wastewater	Aug. 8, 1990.
K013	Nonwastewater	June 8, 1989.
K014	Wastewater	Aug. 8, 1990.
K014	Nonwastewater	June 8, 1989.
K015	Wastewater	Aug. 8, 1988.
K015	Nonwastewater	Aug. 8, 1990.
K016	All	Aug. 8, 1988.
K017	All	Aug. 8, 1990.
K018	All	Aug. 8, 1988.
K019	All	Aug. 8, 1988.
K020	All	Aug. 8, 1988.
K021	Wastewater	Aug. 8, 1990.
K021[c]	Nonwastewater	Aug. 8, 1988.
K022	Wastewater	Aug. 8, 1990.
K022	Nonwastewater	Aug. 8, 1988.
K023	All	June 8, 1989.
K024	All	Aug. 8, 1988.
K025	Wastewater	Aug. 8, 1990.
K025[c]	Nonwastewater	Aug. 8, 1988.
K026	All	Aug. 8, 1990.
K027	All	June 8, 1989.
K028 (metals)	Nonwastewater	Aug. 8, 1990.
K028	All others	June 8, 1989.
K029	Wastewater	Aug. 8, 1990.
K029	Nonwastewater	June 8, 1989.
K030	All	Aug. 8, 1988.
K031	Wastewater	Aug. 8, 1990.
K031	Nonwastewater	May 8, 1992.
K032	All	Aug. 8, 1990.
K033	All	Aug. 8, 1990.
K034	All	Aug. 8, 1990.
K035	All	Aug. 8, 1990.

K036	Wastewater	June 8, 1989.
K036[c]	Nonwastewater	Aug. 8, 1988.
K037[b]	Wastewater	Aug. 8, 1988.
K037	Nonwastewater	Aug. 8, 1988.
K038	All	June 8, 1989.
K039	All	June 8, 1989.
K040	All	June 8, 1989.
K041	All	Aug. 8, 1990.
K042	All	Aug. 8, 1990.
K043	All	June 8, 1989.
K044[c]	All	Aug. 8, 1988.
K045[c]	All	Aug. 8, 1988.
K046 (Nonreactive)	Nonwastewater	Aug. 8, 1988.
K046	All others	Aug. 8, 1990.
K047[c]	All	Aug. 8, 1988.
K048	Wastewater	Aug. 8, 1990.
K048	Nonwastewater	Nov. 8, 1990.
K049	Wastewater	Aug. 8, 1990.
K049	Nonwastewater	Nov. 8, 1990.
K050	Wastewater	Aug. 8, 1990.
K050	Nonwastewater	Nov. 8, 1990.
K051	Wastewater	Aug. 8, 1990.
K051	Nonwastewater	Nov. 8, 1990.
K052	Wastewater	Aug. 8, 1990.
K052	Nonwastewater	Nov. 8, 1990.
K060	Wastewater	Aug. 8, 1990.
K060[c]	Nonwastewater	Aug. 8, 1988.
K061	Wastewater	Aug. 8, 1990.
K061 (low zinc) (interim standard for high zinc remains in effect until August 7, 1991).	Nonwastewater	Aug. 8, 1988.
K062	All	Aug. 8, 1988.
K069 (Non-Calcium Sulfate)[c]	Nonwastewater	Aug. 8, 1988.
K069	All others	Aug. 8, 1990.
K071	All	Aug. 8, 1990.
K073	All	Aug. 8, 1990.
K083	All	Aug. 8, 1990.
K084	Wastewater	Aug. 8, 1990.
K084	Nonwastewater	May 8, 1992.
K085	All	Aug. 8, 1990.
K086 (organics)[b]	All	Aug. 8, 1988.
K086	All others	Aug. 8, 1988.
K087	All	Aug. 8, 1988.
K093	All	June 8, 1989.
K094	All	June 8, 1989.
K095	Wastewater	Aug. 8, 1990.
K095	Nonwastewater	June 8, 1989.
K096	Wastewater	Aug. 8, 1990.
K096	Nonwastewater	June 8, 1989.
K097	All	Aug. 8, 1990.
K098	All	Aug. 8, 1990.
K099	All	Aug. 8, 1988.
K100	Wastewater	Aug. 8, 1990.
K100[c]	Nonwastewater	Aug. 8, 1988.
K101 (organics)	Wastewater	Aug. 8, 1988.
K101 (metals)	Wastewater	Aug. 8, 1990.
K101 (organics)	Nonwastewater	Aug. 8, 1988.
K101 (metals)	Nonwastewater	May 8, 1992.
K102 (organics)	Wastewater	Aug. 8, 1988.
K102 (metals)	Wastewater	Aug. 8, 1990.
K102 (organics)	Nonwastewater	Aug. 8, 1988.
K102 (metals)	Nonwastewater	May 8, 1992.

K103	All	Aug. 8, 1988.
K104	All	Aug. 8, 1988.
K105	All	Aug. 8, 1990.
K106	Wastewater	Aug. 8, 1990.
K106	Nonwastewater	May 8, 1992.
K113	All	June 8, 1989.
K114	All	June 8, 1989.
K115	All	June 8, 1989.
K116	All	June 8, 1989.
P001	All	Aug 8, 1990.
P002	All	Aug. 8, 1990.
P003	All	Aug. 8, 1990.
P004	All	Aug. 8, 1990.
P005	All	Aug. 8, 1990.
P006	All	Aug. 8, 1990.
P007	All	Aug. 8, 1990.
P008	All	Aug. 8, 1990.
P009	All	Aug. 8, 1990.
P010	Wastewater	Aug. 8, 1990.
P010	Nonwastewater	May 8, 1992.
P011	Wastewater	Aug. 8, 1990.
P011	Nonwastewater	May 8, 1992.
P012	Wastewater	Aug. 8, 1990.
P012	Nonwastewater	May 8, 1992.
P013 (barium)	Nonwastewater	Aug. 8, 1990.
P013	All others	June 8, 1989.
P014	All	Aug. 8, 1990.
P015	All	Aug. 8, 1990.
P016	All	Aug. 8, 1990.
P017	All	Aug. 8, 1990.
P018	All	Aug. 8, 1990.
P020	All	Aug. 8, 1990.
P021	All	June 8, 1989.
P022	All	Aug. 8, 1990.
P023	All	Aug. 8, 1990.
P024	All	Aug. 8, 1990.
P026	All	Aug. 8, 1990.
P027	All	Aug. 8, 1990.
P028	All	Aug. 8, 1990.
P029	All	June 8, 1989.
P030	All	June 8, 1989.
P031	All	Aug. 8, 1990.
P033	All	Aug. 8, 1990.
P034	All	Aug. 8, 1990.
P036	Wastewater	Aug. 8, 1990.
P036	Nonwastewater	May 8, 1992.
P037	All	Aug. 8, 1990.
P038	Wastewater	Aug. 8, 1990.
P038	Nonwastewater	May 8, 1992.
P039	All	June 8, 1989.
P040	All	June 8, 1989.
P041	All	June 8, 1989.
P042	All	Aug. 8, 1990.
P043	All	June 8, 1989.
P044	All	June 8, 1989.
P045	All	Aug. 8, 1990.
P046	All	Aug. 8, 1990.
P047	All	Aug. 8, 1990.
P048	All	Aug. 8, 1990.
P049	All	Aug. 8, 1990.
P050	All	Aug. 8, 1990.
P051	All	Aug. 8, 1990.
P054	All	Aug. 8, 1990.
P056	All	Aug. 8, 1990.
P057	All	Aug. 8, 1990.
P058	All	Aug. 8, 1990.
P059	All	Aug. 8, 1990.

P060	All	Aug. 8, 1990.
P062	All	June 8, 1989.
P063	All	June 8, 1989.
P064	All	Aug. 8, 1990.
P065	Wastewater	Aug. 8, 1990.
P065	Nonwastewater	May 8, 1992.
P066	All	Aug. 8, 1990.
P067	All	Aug. 8, 1990.
P068	All	Aug. 8, 1990.
P069	All	Aug. 8, 1990.
P070	All	Aug. 8, 1990.
P071	All	June 8, 1989.
P072	All	Aug. 8, 1990.
P073	All	Aug. 8, 1990.
P074	All	June 8, 1989.
P075	All	Aug. 8, 1990.
P076	All	Aug. 8, 1990.
P077	All	Aug. 8, 1990.
P078	All	Aug. 8, 1990.
P081	All	Aug. 8, 1990.
P082	All	Aug. 8, 1990.
P084	All	Aug. 8, 1990.
P085	All	June 8, 1989.
P087	All	May 8, 1992.
P088	All	Aug. 8, 1990.
P089	All	June 8, 1989.
P092	Wastewater	Aug. 8, 1990.
P092	Nonwastewater	May 8, 1992.
P093	All	Aug. 8, 1990.
P094	All	June 8, 1989.
P095	All	Aug. 8, 1990.
P096	All	Aug. 8, 1990.
P097	All	June 8, 1989.
P098	All	June 8, 1989.
P099 (silver)	Wastewater	Aug. 8, 1990.
P099	All others	June 8, 1989.
P101	All	Aug. 8, 1990.
P102	All	Aug. 8, 1990.
P103	All	Aug. 8, 1990.
P104 (silver)	Wastewater	Aug. 8, 1990.
P104	All others	June 8, 1989.
P105	All	Aug. 8, 1990.
P106	All	June 8, 1989.
P108	All	Aug. 8, 1990.
P109	All	June 8, 1989.
P110	All	Aug. 8, 1990.
P111	All	June 8, 1989.
P112	All	Aug. 8, 1990.
P113	All	Aug. 8, 1990.
P114	All	Aug. 8, 1990.
P115	All	Aug. 8, 1990.
P116	All	Aug. 8, 1990.
P118	All	Aug. 8, 1990.
P119	All	Aug. 8, 1990.
P120	All	Aug. 8, 1990.
P121	All	June 8, 1989.
P122	All	Aug. 8, 1990.
P123	All	Aug. 8, 1990.
U001	All	Aug. 8, 1990.
U002	All	Aug. 8, 1990.
U003	All	Aug. 8, 1990.
U004	All	Aug. 8, 1990.
U005	All	Aug. 8, 1990.
U006	All	Aug. 8, 1990.
U007	All	Aug. 8, 1990.
U008	All	Aug. 8, 1990.
U009	All	Aug. 8, 1990.

U010	All	Aug. 8, 1990.
U011	All	Aug. 8, 1990.
U012	All	Aug. 8, 1990.
U014	All	Aug. 8, 1990.
U015	All	Aug. 8, 1990.
U016	All	Aug. 8, 1990.
U017	All	Aug. 8, 1990.
U018	All	Aug. 8, 1990.
U019	All	Aug. 8, 1990.
U020	All	Aug. 8, 1990.
U021	All	Aug. 8, 1990.
U022	All	Aug. 8, 1990.
U023	All	Aug. 8, 1990.
U024	All	Aug. 8, 1990.
U025	All	Aug. 8, 1990.
U026	All	Aug. 8, 1990.
U027	All	Aug. 8, 1990.
U028	All	June 8, 1989.
U029	All	Aug. 8, 1990.
U030	All	Aug. 8, 1990.
U031	All	Aug. 8, 1990.
U032	All	Aug. 8, 1990.
U033	All	Aug. 8, 1990.
U034	All	Aug. 8, 1990.
U035	All	Aug. 8, 1990.
U036	All	Aug. 8, 1990.
U037	All	Aug. 8, 1990.
U038	All	Aug. 8, 1990.
U039	All	Aug. 8, 1990.
U041	All	Aug. 8, 1990.
U042	All	Aug. 8, 1990.
U043	All	Aug. 8, 1990.
U044	All	Aug. 8, 1990.
U045	All	Aug. 8, 1990.
U046	All	Aug. 8, 1990.
U047	All	Aug. 8, 1990.
U048	All	Aug. 8, 1990.
U049	All	Aug. 8, 1990.
U050	All	Aug. 8, 1990.
U051	All	Aug. 8, 1990.
U052	All	Aug. 8, 1990.
U053	All	Aug. 8, 1990.
U055	All	Aug. 8, 1990.
U056	All	Aug. 8, 1990.
U057	All	Aug. 8, 1990.
U058	All	June 8, 1989.
U059	All	Aug. 8, 1990.
U060	All	Aug. 8, 1990.
U061	All	Aug. 8, 1990.
U062	All	Aug. 8, 1990.
U063	All	Aug. 8, 1990.
U064	All	Aug. 8, 1990.
U066	All	Aug. 8, 1990.
U067	All	Aug. 8, 1990.
U068	All	Aug. 8, 1990.
U069	All	June 8, 1989.
U070	All	Aug. 8, 1990.
U071	All	Aug. 8, 1990.
U072	All	Aug. 8, 1990.
U073	All	Aug. 8, 1990.
U074	All	Aug. 8, 1990.
U075	All	Aug. 8, 1990.
U076	All	Aug. 8, 1990.
U077	All	Aug. 8, 1990.
U078	All	Aug. 8, 1990.
U079	All	Aug. 8, 1990.
U080	All	Aug. 8, 1990.

U081	All	Aug. 8, 1990.
U082	All	Aug. 8, 1990.
U083	All	Aug. 8, 1990.
U084	All	Aug. 8, 1990.
U085	All	Aug. 8, 1990.
U086	All	Aug. 8, 1990.
U087	All	June 8, 1989.
U088	All	June 8, 1989.
U089	All	Aug. 8, 1990.
U090	All	Aug. 8, 1990.
U091	All	Aug. 8, 1990.
U092	All	Aug. 8, 1990.
U093	All	Aug. 8, 1990.
U094	All	Aug. 8, 1990.
U095	All	Aug. 8, 1990.
U096	All	Aug. 8, 1990.
U097	All	Aug. 8, 1990.
U098	All	Aug. 8, 1990.
U099	All	Aug. 8, 1990.
U101	All	Aug. 8, 1990.
U102	All	June 8, 1989.
U103	All	Aug. 8, 1990.
U105	All	Aug. 8, 1990.
U106	All	Aug. 8, 1990.
U107	All	June 8, 1989.
U108	All	Aug. 8, 1990.
U109	All	Aug. 8, 1990.
U110	All	Aug. 8, 1990.
U111	All	Aug. 8, 1990.
U112	All	Aug. 8, 1990.
U113	All	Aug. 8, 1990.
U114	All	Aug. 8, 1990.
U115	All	Aug. 8, 1990.
U116	All	Aug. 8, 1990.
U117	All	Aug. 8, 1990.
U118	All	Aug. 8, 1990.
U119	All	Aug. 8, 1990.
U120	All	Aug. 8, 1990.
U121	All	Aug. 8, 1990.
U122	All	Aug. 8, 1990.
U123	All	Aug. 8, 1990.
U124	All	Aug. 8, 1990.
U125	All	Aug. 8, 1990.
U126	All	Aug. 8, 1990.
U127	All	Aug. 8, 1990.
U128	All	Aug. 8, 1990.
U129	All	Aug. 8, 1990.
U130	All	Aug. 8, 1990.
U131	All	Aug. 8, 1990.
U132	All	Aug. 8, 1990.
U133	All	Aug. 8, 1990.
U134	All	Aug. 8, 1990.
U135	All	Aug. 8, 1990.
U136	Wastewate:	Aug. 8, 1990.
U136	Nonwastewate:	May 8, 1992.
U137	All	Aug. 8, 1990.
U138	All	Aug. 8, 1990.
U140	All	Aug. 8, 1990.
U141	All	Aug. 8, 1990.
U142	All	Aug. 8, 1990.
U143	All	Aug. 8, 1990.
U144	All	Aug. 8, 1990.
U145	All	Aug. 8, 1990.
U146	All	Aug. 8, 1990.
U147	All	Aug. 8, 1990.
U148	All	Aug. 8, 1990.
U149	All	Aug. 8, 1990.

U150	All	Aug. 8, 1990.
U151	Wastewater	Aug. 8, 1990.
U151	Nonwastewater	May 8, 1992.
U152	All	Aug. 8, 1990.
U153	All	Aug. 8, 1990.
U154	All	Aug. 8, 1990.
U155	All	Aug. 8, 1990.
U156	All	Aug. 8, 1990.
U157	All	Aug. 8, 1990.
U158	All	Aug. 8, 1990.
U159	All	Aug. 8, 1990.
U160	All	Aug. 8, 1990.
U161	All	Aug. 8, 1990.
U162	All	Aug. 8, 1990.
U163	All	Aug. 8, 1990.
U164	All	Aug. 8, 1990.
U165	All	Aug. 8, 1990.
U166	All	Aug. 8, 1990.
U167	All	Aug. 8, 1990.
U168	All	Aug. 8, 1990.
U169	All	Aug. 8, 1990.
U170	All	Aug. 8, 1990.
U171	All	Aug. 8, 1990.
U172	All	Aug. 8, 1990.
U173	All	Aug. 8, 1990.
U174	All	Aug. 8, 1990.
U176	All	Aug. 8, 1990.
U177	All	Aug. 8, 1990.
U178	All	Aug. 8, 1990.
U179	All	Aug. 8, 1990.
U180	All	Aug. 8, 1990.
U181	All	Aug. 8, 1990.
U182	All	Aug. 8, 1990.
U183	All	Aug. 8, 1990.
U184	All	Aug. 8, 1990.
U185	All	Aug. 8, 1990.
U186	All	Aug. 8, 1990.
U187	All	Aug. 8, 1990.
U188	All	Aug. 8, 1990.
U189	All	Aug. 8, 1990.
U190	All	June 8, 1989.
U191	All	Aug. 8, 1990.
U192	All	Aug. 8, 1990.
U193	All	Aug. 8, 1990.
U194	All	Aug. 8, 1990.
U196	All	Aug. 8, 1990.
U197	All	Aug. 8, 1990.
U200	All	Aug. 8, 1990.
U201	All	Aug. 8, 1990.
U202	All	Aug. 8, 1990.
U203	All	Aug. 8, 1990.
U204	All	Aug. 8, 1990.
U205	All	Aug. 8, 1990.
U206	All	Aug. 8, 1990.
U207	All	Aug. 8, 1990.
U208	All	Aug. 8, 1990.
U209	All	Aug. 8, 1990.
U210	All	Aug. 8, 1990.
U211	All	Aug. 8, 1990.
U213	All	Aug. 8, 1990.
U214	All	Aug. 8, 1990.
U215	All	Aug. 8, 1990.
U216	All	Aug. 8, 1990.
U217	All	Aug. 8, 1990.
U218	All	Aug. 8, 1990.
U219	All	Aug. 8, 1990.
U220	All	Aug. 8, 1990.

U221	All	June 8, 1989.
U222	All	Aug. 8, 1990.
U223	All	June 8, 1989.
U225	All	Aug. 8, 1990.
U226	All	Aug. 8, 1990.
U227	All	Aug. 8, 1990.
U228	All	Aug. 8, 1990.
U234	All	Aug. 8, 1990.
U235	All	June 8, 1989.
U236	All	Aug. 8, 1990.
U237	All	Aug. 8, 1990.
U238	All	Aug. 8, 1990.
U239	All	Aug. 8, 1990.
U240	All	Aug. 8, 1990.
U243	All	Aug. 8, 1990.
U244	All	Aug. 8, 1990.
U246	All	Aug. 8, 1990.
U247	All	Aug. 8, 1990.
U248	All	Aug. 8, 1990.
U249	All	Aug. 8, 1990.

FOOTNOTE: [a]This table does not include mixed radioactive wastes (from the First, Second,and Third rules) which are receiving a national capacity variance until May 8, 1992, for all applicable treatment technologies. This table also does not include contaminated soil and debris wastes.

FOOTNOTE: [b]The standard has been revised in the Third Third Final Rule.

FOOTNOTE: [c]No land disposal standard has been revised in the Third Third Final Rule.

Table 2.-Summary of Effective Dates of Land Disposal Restrictions for Contaminated Soil and Debris (CSD)

Restricted hazardous waste in CSD		Effective date
1.	Solvent-(F001-F005) and dioxin-(F020-F023 and F026-F028) containing soil and debris from CERCLA response of RCRA corrective actions.	Nov. 8, 1990.
2.	Soil and debris not from CERCLA response or RCRA corrective actions contaminated with less than 1% total solvents (F001-F005) or dioxins (F020-F023 and F026-F028).	Nov. 8, 1988.
3.	Soil and debris contaminated with California list HOCs from CERCLA response or RCRA corrective actions.	Nov. 8, 1990.
4.	Soil and debris contaminated with California list HOCs not from CERCLA response or RCRA corrective actions.	July 8, 1989.
5.	All soil and debris contaminated with First Third wastes for which treatment standards are based on incineration.	Aug. 8, 1990.
6.	All soil and debris contaminated with Second Third wastes for which treatment standards are based on incineration.	June 8, 1991.
7.	All soil and debris contaminated with Third Third wastes or, First or Second Third "soft hammer" wastes which had treatment standards promulgated in the Third Third rule, for which treatment standards are based on incineration, vitrification, or mercury retorting, acid leaching followed by chemical precipitation, or thermal recovery of metals, as well as all inorganic solids debris contaminated with	May 8, 1992.

D004-D011 wastes, and all soil and debris contaminated with mixed RCRA/radioactive wastes.

Note: 1. Appendix VII is provided for the convenience of the reader.

2. Contaminated Soil and Debris Rule will be promulgated in the future.

[56 FR 3912, Jan. 31, 1991]

Appendix VIII

National Capacity LDR Variances for UIC Wastes[a]

Waste code	Waste category	Effective date
F001-F005	All spent F001-F005 solvent containing less than 1 percent total F001-F005 solvent constituents	Aug. 8, 1990.
California list	Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing free cyanides at concentrations greater than or equal to 1,000 mg/l, or containing certain metals or compounds of these metals greater than or equal to the prohibition levels	Aug. 8, 1990.
California list	Liquid hazardous waste having a pH less than or equal to 2	Aug. 8, 1990.
California list	Hazardous wastes containing HOCs in total concentrations less than 10,000 mg/l but greater than or equal to 1,000 mg/l	Aug. 8, 1990.
D002[b]	All	May 8, 1992.
D003 (cyanides)	All	May 8, 1992.
D003 (sulfides)	All	May 8, 1992.
D003 (explosives, reactives).	All	May 8, 1992.
D007	All	May 8, 1992.
D009	Nonwastewater	May 8, 1992.
F007	All	June 8, 1991.
F039	Wastewater	May 8, 1992.
K009	Wastewater	June 8, 1991.
K011	Nonwastewater	June 8, 1991.
K011	Wastewater	May 8, 1992.
K013	Nonwastewater	June 8, 1991.
K013	Wastewater	May 8, 1992.
K014	All	May 8, 1992.
K016 (dilute)	All	June 8, 1991.
K049	All	Aug. 8, 1990.
K050	All	Aug. 8, 1990.
K051	All	Aug. 8, 1990.
K052	All	Aug. 8, 1990.
K062	All	Aug. 8, 1990.
K071	All	Aug. 8, 1990.
K104	All	Aug. 8, 1990.

FOOTNOTE: [a]Wastes that are deep well disposed on-site receive a six-month variance, with restrictions effective in November 1990.

FOOTNOTE: [b]Deepwell injected D002 liquids with a pH less than 2 must meet the California List treatment standards on August 8, 1990.

Note: This table is provided for the convenience of the reader.

[56 FR 3920, Jan. 31, 1991]

Appendix IX-Extraction Procedure (EP) Toxicity Test Method and Structural Integrity Test (SW-846, Method 1310A)

1.0 Scope and Application

1.1 This method is an interim method to determine whether a waste exhibits the characteristic of Extraction Procedure Toxicity.

1.2 The procedure may also be used to simulate the leaching which a waste may undergo if disposed of in a sanitary landfill. Method 1310 is applicable to liquid, solid, and multiphase samples.

2.0 Summary of Method

2.1 If a representative sample of the waste contains >0.5% solids, the solid phase of the sample is ground to pass a 9.5 mm sieve and extracted with deionized water which is maintained at a pH of 5 ± 0.2, with acetic acid. Wastes that contain <0.5% filterable solids are, after filtering, considered to be the EP extract for this method. Monolithic wastes which can be formed into a cylinder 3.3 cm (dia) x 7.1 cm, or from which such a cylinder can be formed which is representative of the waste, may be evaluated using the Structural Integrity Procedure instead of being ground to pass a 9.5-mm sieve.

3.0 Interferences

3.1 Potential interferences that may be encountered during analysis are discussed in the individual analytical methods.

4.0 Apparatus and Materials

4.1 Extractor-For purposes of this test, an acceptable extractor is one that will impart sufficient agitation to the mixture to (1) prevent stratification of the sample and extraction fluid and (2) ensure that all sample surfaces are continuously brought into contact with well-mixed extraction fluid. Examples of suitable extractors are shown in Figures 1-3 of this method and are available from: Associated Designs & Manufacturing Co., Alexandria, Virginia; Glas-Col Apparatus Co., Terre Haute, Indiana; Millipore, Bedford, Massachusetts; and Rexnard, Milwaukee, Wisconsin.

4.2 pH meter or pH controller-Accurate to 0.05 pH units with temperature compensation.

4.3 Filter holder-Capable of supporting a 0.45-μm filter membrane and of withstanding the pressure needed to accomplish separation. Suitable filter holders range from simple vacuum units to relatively complex systems that can exert up to 5.3 kg/cm^3 (75 psi) of pressure. The type of filter holder used depends upon the properties of the mixture to be filtered. Filter holders known to EPA and deemed suitable for use are listed in Table 1.

4.4 Filter membrane-Filter membrane suitable for conducting the required filtration shall be fabricated from a material that (1) is not physically changed by the waste material to be filtered and (2) does not absorb or leach the chemical species for which a waste's EP extract will be analyzed. Table 2 lists filter media known to the agency to be suitable for solid waste testing.

4.4.1 In cases of doubt about physical effects on the filter, contact the filter manufacturer to determine if the membrane or the prefilter is adversely affected by the particular waste. If no information is available, submerge the filter in the waste's liquid phase. A filter that undergoes visible physical change after 48 hours (i.e., curls, dissolves, shrinks, or swells) is unsuitable for use.

4.4.2 To test for absorption or leaching by the filter:

4.4.2.1 Prepare a standard solution of the chemical species of interest.

4.4.2.2 Analyze the standard for its concentration of the chemical species.

4.4.2.3 Filter the standard and reanalyze. If the concentration of the filtrate differs from that of the original standard, then the filter membrane leaches or absorbs one or more of the chemical species and is not usable in this test method.

Gelman	61654, 61655	
Nuclepore	210905, 211705	210905, 211705
Millipore	AP20 035 00, AP20 124 50	AP20 035 00, AP20 124 50
Fine prefilters		
Gelman	64798, 64803	64798, 64803
Nuclepore	210903, 211703	210903, 211703
Millipore	AP15 035 00, AP15 124 50	AP15 035 00, AP15 124 50
Fine filters (0.45 μm)		
Gelman	63069, 66536	60540 or 66149, 66151
Pall	NX04750, NX14225	
Nuclepore	142218	[a]142218
Millipore	HAWP 047 00, HAWP 142 50	FHUP 047 00, FHLP 142 50
Selas	83485-02, 83486-02	83485-02, 83486-02

FOOTNOTE: [a]Susceptible to decomposition by certain polar organic solvents.

Table 3.-Precisions of Extraction-Analysis Procedures for Several Elements

Element	Sample matrix	Analysis method	Laboratory replicates
Arsenic	1. Auto fluff	7060	1.8,1.5 μg/L
	2. Barrel sludge	7060	0.9, 2.6 μg/L
	3. Lumber treatment company sediment	7060	28, 42 mg/L
Barium	1. Lead smelting emission control dust	6010	0.12, 0.12 mg/L
	2. Auto fluff	7081	791, 780 μg/L
	3. Barrel sludge	7081	422, 380 μg/L
Cadmium	1. Lead smelting emission control dust	3010/7130	120, 120 mg/L
	2. Wastewater treatment sludge from electroplating	3010/7130	360, 290 mg/L
	3. Auto fluff	7131	470, 610 μg/L
	4. Barrel sludge	7131	1100, 890 μg/L
	5. Oil refinery tertiary pond sludge	7131	3.2, 1.9 μg/L
Chromium	1. Wastewater treatment sludge from electroplating	3010/7190	1.1, 1.2 mg/L
	2. Paint primer	7191	61, 43 μg/L
	3. Paint primer filter	7191	-
	4. Lumber treatment company sediment	7191	0.81, 0.89 mg/L
	5. Oil refinery tertiary pond sludge	7191	-
Mercury	1. Barrel sludge	7470	0.15, 0.09 μg/L
	2. Wastewater treatment sludge from electroplating	7470	1.4, 0.4 μg/L
	3. Lead smelting emission control dust	7470	0.4, 0.4 μg/L
Lead	1. Lead smelting emission control dust	3010/7420	940, 920 mg/L
	2. Auto fluff	7421	1540, 1490 μg/L
	3. Incinerator ash	7421	1000, 974 μg/L
	4. Barrel sludge	7421	2550, 2800 μg/L
	5. Oil refinery tertiary pond sludge	7421	31, 29 μg/L
Nickel	1. Sludge	7521	2260, 1720 μg/L
	2. Wastewater treatment sludge from electroplating	3010/7520	130, 140 mg/L
Chromium (VI)	1. Wastewater treatment sludge from electroplating	7196	18, 19 μg/L

7.7.1 Dry the filter and residue at 80 °C until two successive weighings yield the same value.

7.7.2 Calculate the percent solids, using the following equation:

$$\frac{\text{weight of filtered solid and filters} - \text{tared weight of filters}}{\text{initial weight of waste material}} \times 100 = \% \text{ solids}$$

Note: This procedure is used only to determine whether the solid must be extracted or whether it can be discarded unextracted. It is not used in calculating the amount of water or acid to use in the extraction step. Do not extract solid material that has been dried at 80 °C. A new sample will have to be used for extraction if a percent solids determination is performed.

7.8 If the solid constitutes <0.5% of the waste, discard the solid and proceed immediately to Step 7.17, treating the liquid phase as the extract.

7.9 The solid material obtained from Step 7.5 and all materials that do not contain free liquids shall be evaluated for particle size. If the solid material has a surface area per g of material ≥3.1 cm^2 or passes through a 9.5-mm (0.375-in.) standard sieve, the operator shall proceed to Step 7.11. If the surface area is smaller or the particle size larger than specified above, the solid material shall be prepared for extraction by crushing, cutting, or grinding the material so that it passes through a 9.5-mm (0.375-in.) sieve or, if the material is in a single piece, by subjecting the material to the "Structural Integrity Procedure" described in Step 7.10.

7.10 Structural Integrity Procedure (SIP).

7.10.1 Cut a 3.3-cm diameter by 7.1-cm long cylinder from the waste material. If the waste has been treated using a fixation process, the waste may be cast in the form of a cylinder and allowed to cure for 30 days prior to testing.

7.10.2 Place waste into sample holder and assemble the tester. Raise the hammer to its maximum height and drop. Repeat 14 additional times.

7.10.3 Remove solid material from tester and scrape off any particles adhering to sample holder. Weigh the waste to the nearest 0.01 g and transfer it to the extractor.

7.11 If the sample contains >0.5% solids, use the wet weight of the solid phase (obtained in Step 7.6) to calculate the amount of liquid and acid to employ for extraction by using the following equation:

$$W = W_f - W_t$$

where:

W=Wet weight in g of solid to be charged to extractor.
W_f=Wet weight in g of filtered solids and filter media.
W_t=Weight in g of tared filters.

If the waste does not contain any free liquids, 100 g of the material will be subjected to the extraction procedure.

7.12 Place the appropriate amount of material (refer to Step 7.11) into the extractor and add 16 times its weight with water.

7.13 After the solid material and water are placed in the extractor, the operator shall begin agitation and measure the pH of the solution in the extractor. If the pH is >5.0, the pH of the solution shall be decreased to 5.0 ±0.2 by slowly adding 0.5N acetic acid. If the pH is ≤5.0, no acetic acid should be added. The pH of the solution shall be monitored, as described below, during the course of extraction, and, if the pH rises above 5.2, 0.5N acetic acid shall be added to bring the pH down to 5.0 ± 0.2. However, in no event shall the aggregate amount of acid added to the solution exceed 4 mL of acid per g of solid. The mixture shall be agitated for 24 hours and maintained at 20-40 °C (68-104 °F) during this time. It is recommended that the

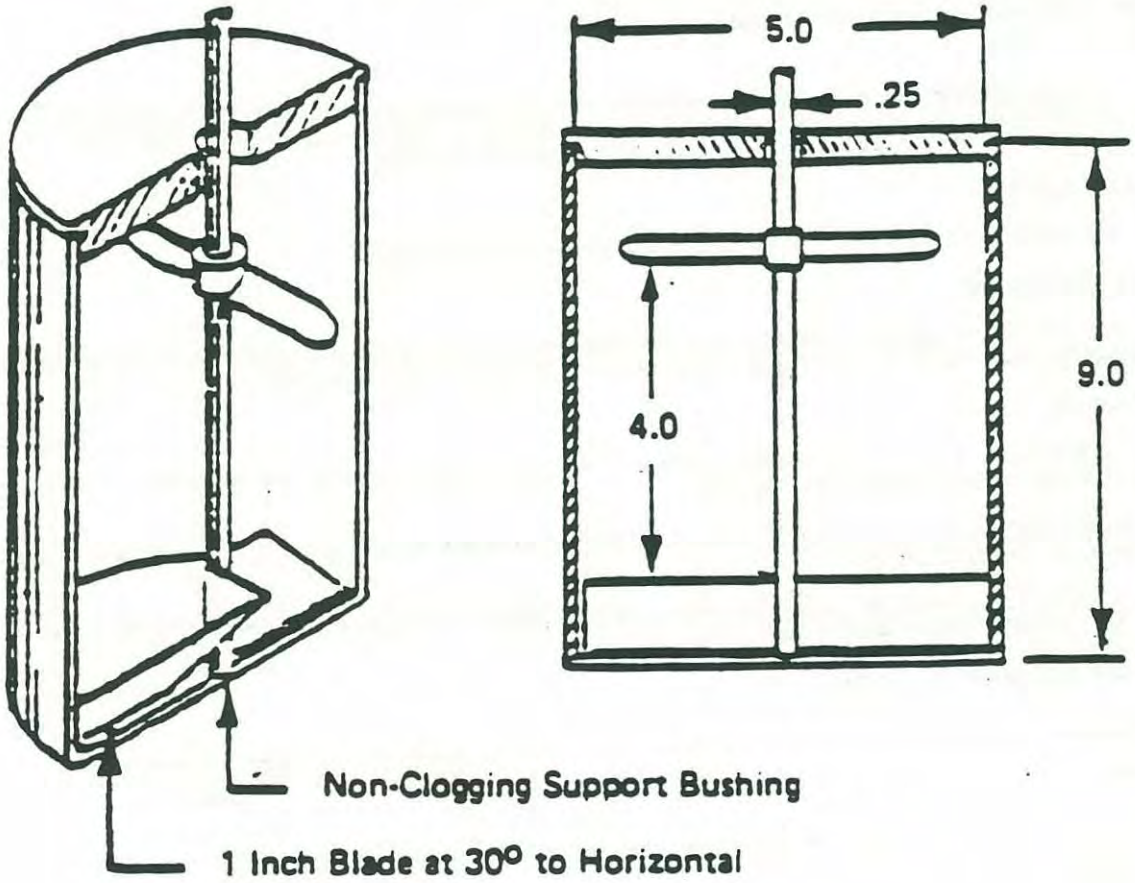

Figure 1. Extractor.

7.18 The extract concentrations are compared with the maximum contamination limits listed in 40 CFR 261.24. If the extract concentrations are greater than or equal to the respective values, the waste then is considered to exhibit the characteristic of Extraction Procedure Toxicity.

8.0 Quality Control

8.1 Refer to Chapter One for specific quality control procedures.

9.0 Method Performance

9.1 The data tabulated in Table 3 were obtained from records of state and contractor laboratories and are intended to show the precision of the entire method (1301 plus analysis method).

10.0 References

1. Rohrbough, W.G.; et al. Reagent Chemicals, American Chemical Society Specifications, 7th ed.; American Chemical Society: Washington, DC 1986.

2. 1985 Annual Book of ASTM Standards, Vol. 11.01; "Standard Specification for Reagent Water"; ASTM: Philadelphia, PA, 1985; D1193-77.

3. Gaskill, A., Compilation and Evaluation of RCRA Method Performance Data, Work Assignment No. 2, EPA Contract No. 68-01-7075, September 1986.

Table 1.-EPA-Approved Filter Holders

Manufacturer	Size	Model No.	Comments
Vacuum Filters			
Gelman	47 mm	4011	
Nalgene	500 mL	44-0045	Disposable plastic unit, including prefilter, filter pads, and reservoir; can be used when solution is to be analyzed for inorganic constituents.
Nuclepore	47 mm	410400	
Millipore	47 mm	XX10 047 00	
Pressure Filters			
Nuclepore	142 mm	425900	
Micro Filtration Systems	142 mm	302300	
Millipore	142 mm	YT30 142 HW	

Table 2.-EPA-Approved Filtration Media

Supplier	Filter to be used for aqueous systems	Filter to be used for organic systems
Coarse prefilters		
Gelman	61631, 61635	61631, 61635
Nuclepore	210907, 211707	210907, 211707
Millipore	AP25 035 00, AP25 127 50	AP25 035 00, AP25 127 50
Medium prefilters		

Gelman	61654, 61655	
Nuclepore	210905, 211705	210905, 211705
Millipore	AP20 035 00, AP20 124 50	AP20 035 00, AP20 124 50
Fine prefilters		
Gelman	64798, 64803	64798, 64803
Nuclepore	210903, 211703	210903, 211703
Millipore	AP15 035 00, AP15 124 50	AP15 035 00, AP15 124 50
Fine filters (0.45 μm)		
Gelman	63069, 66536	60540 or 66149, 66151
Pall	NX04750, NX14225	
Nuclepore	142218	[a]142218
Millipore	HAWP 047 00, HAWP 142 50	FHUP 047 00, FHLP 142 50
Selas	83485-02, 83486-02	83485-02, 83486-02

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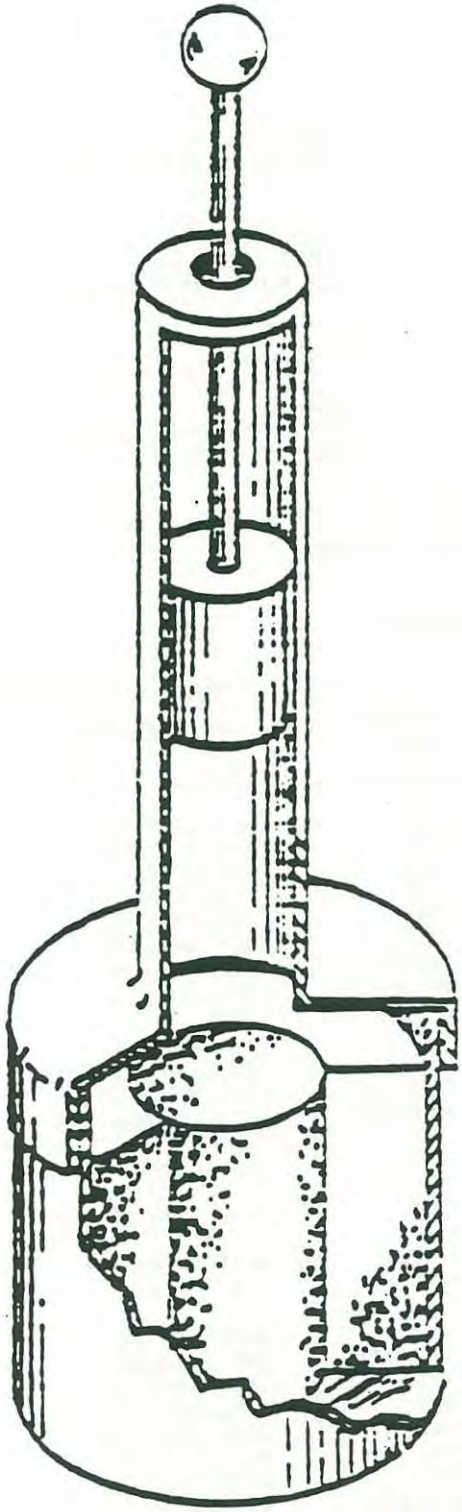
	2. Auto fluff	7081	791, 780 μg/L
	3. Barrel sludge	7081	422, 380 μg/L
Cadmium	1. Lead smelting emission control dust	3010/7130	120, 120 mg/L
	2. Wastewater treatment sludge from electroplating	3010/7130	360, 290 mg/L
	3. Auto fluff	7131	470, 610 μg/L
	4. Barrel sludge	7131	1100, 890 μg/L
	5. Oil refinery tertiary pond sludge	7131	3.2, 1.9 μg/L
Chromium	1. Wastewater treatment sludge from electroplating	3010/7190	1.1, 1.2 mg/L
	2. Paint primer	7191	61, 43 μg/L
	3. Paint primer filter	7191	-
	4. Lumber treatment company sediment	7191	0.81, 0.89 mg/L
	5. Oil refinery tertiary pond sludge	7191	-
Mercury	1. Barrel sludge	7470	0.15, 0.09 μg/L
	2. Wastewater treatment sludge from electroplating	7470	1.4, 0.4 μg/L
	3. Lead smelting emission control dust	7470	0.4, 0.4 μg/L
Lead	1. Lead smelting emission control dust	3010/7420	940, 920 mg/L
	2. Auto fluff	7421	1540, 1490 μg/L
	3. Incinerator ash	7421	1000, 974 μg/L
	4. Barrel sludge	7421	2550, 2800 μg/L
	5. Oil refinery tertiary pond sludge	7421	31, 29 μg/L
Nickel	1. Sludge	7521	2260, 1720 μg/L
	2. Wastewater treatment sludge from electroplating	3010/7520	130, 140 mg/L
Chromium (VI)	1. Wastewater treatment sludge from electroplating	7196	18, 19 μg/L



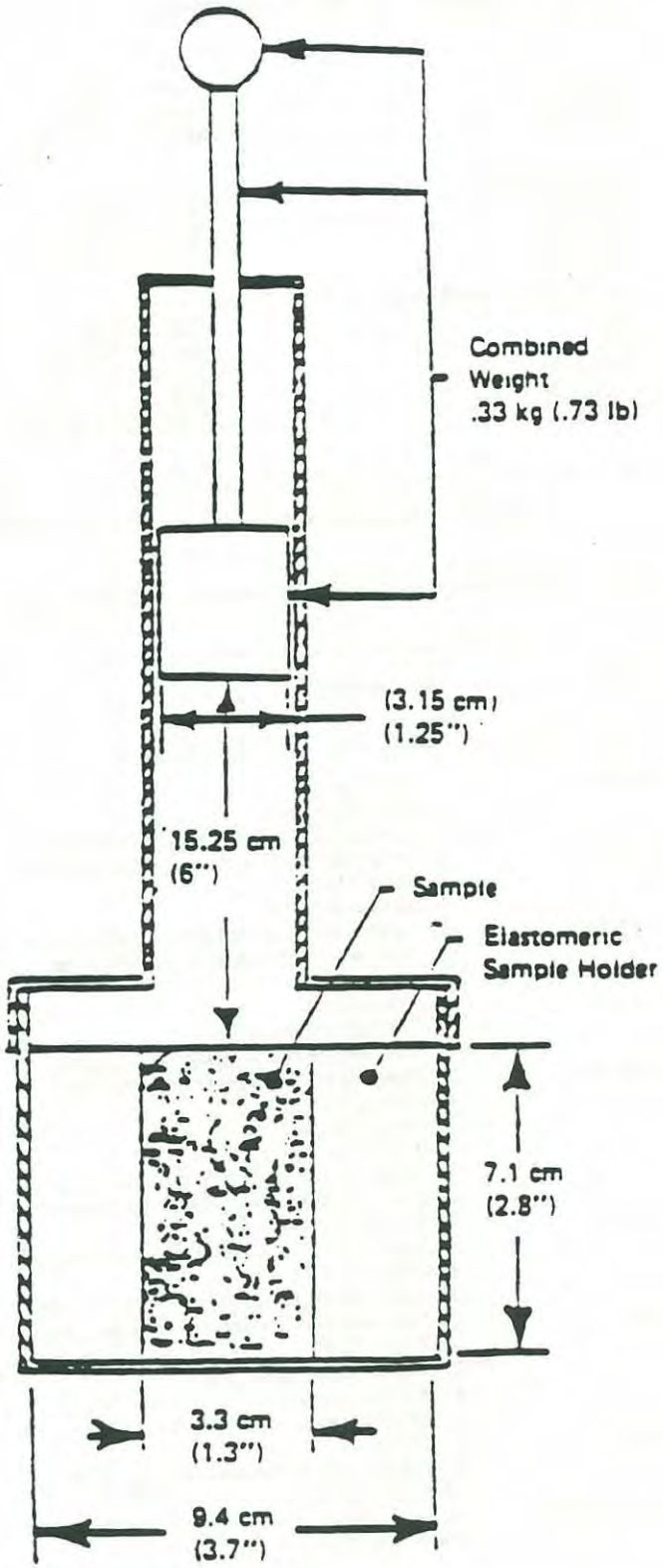


Figure 4. Compaction tester.

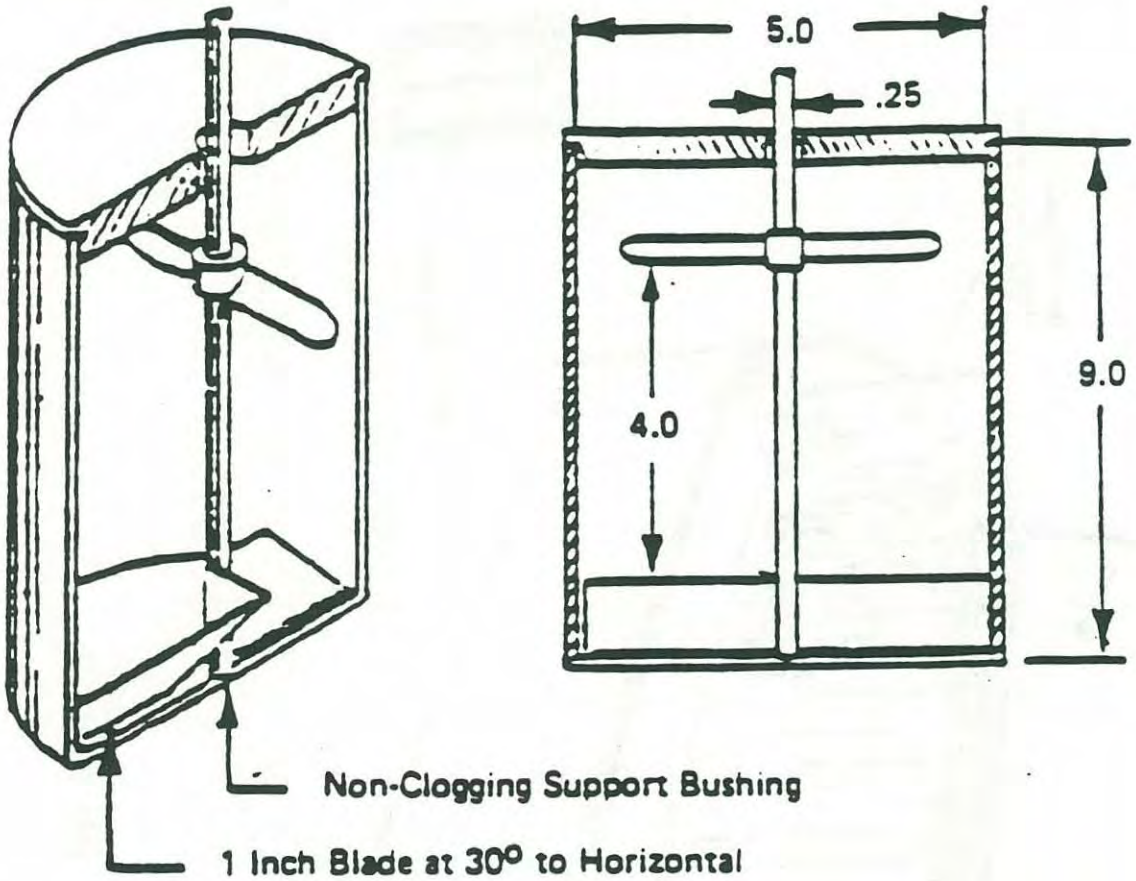


Figure 1. Extractor.

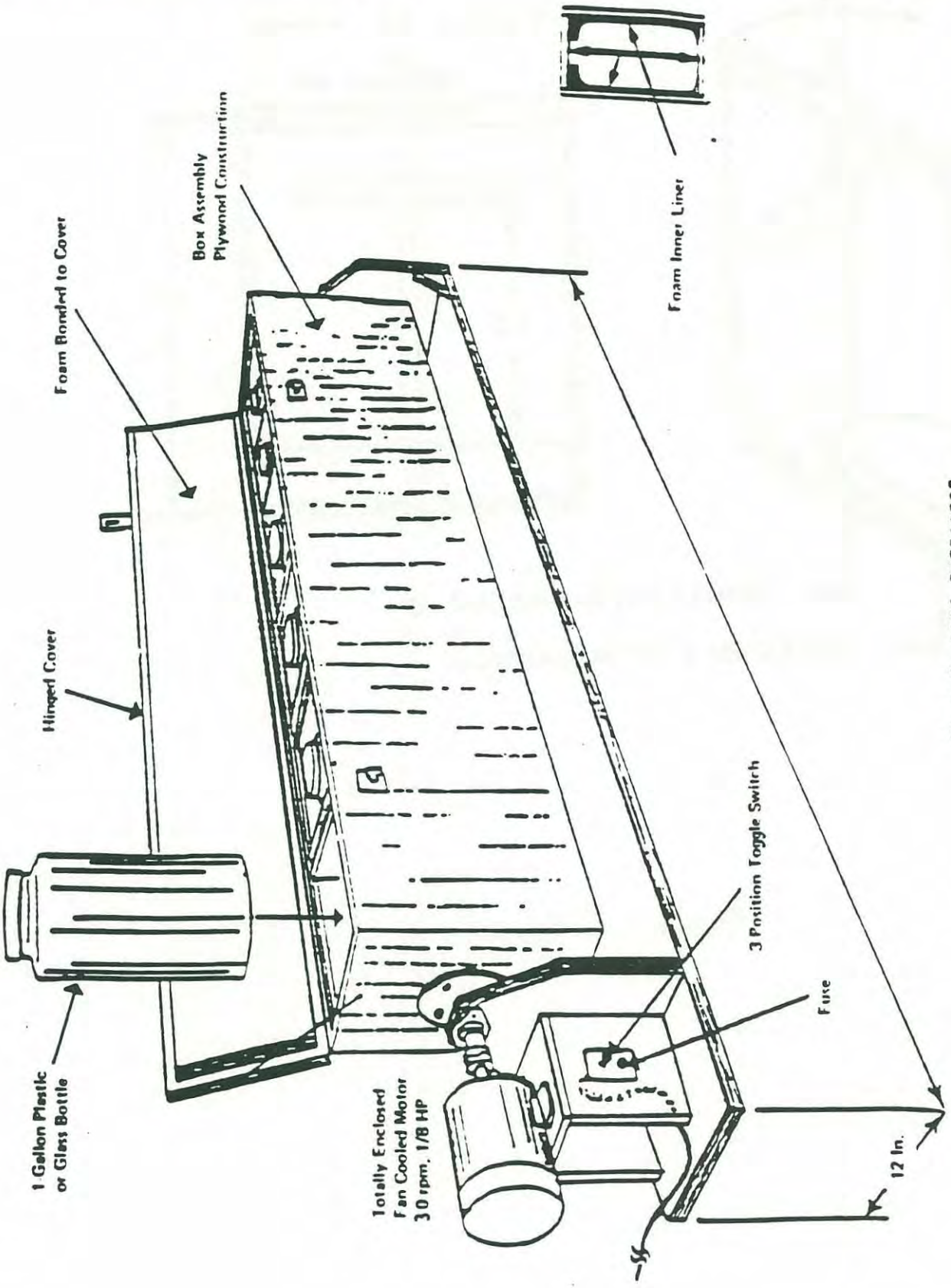


Figure 3. EPRI EXTRACTOR

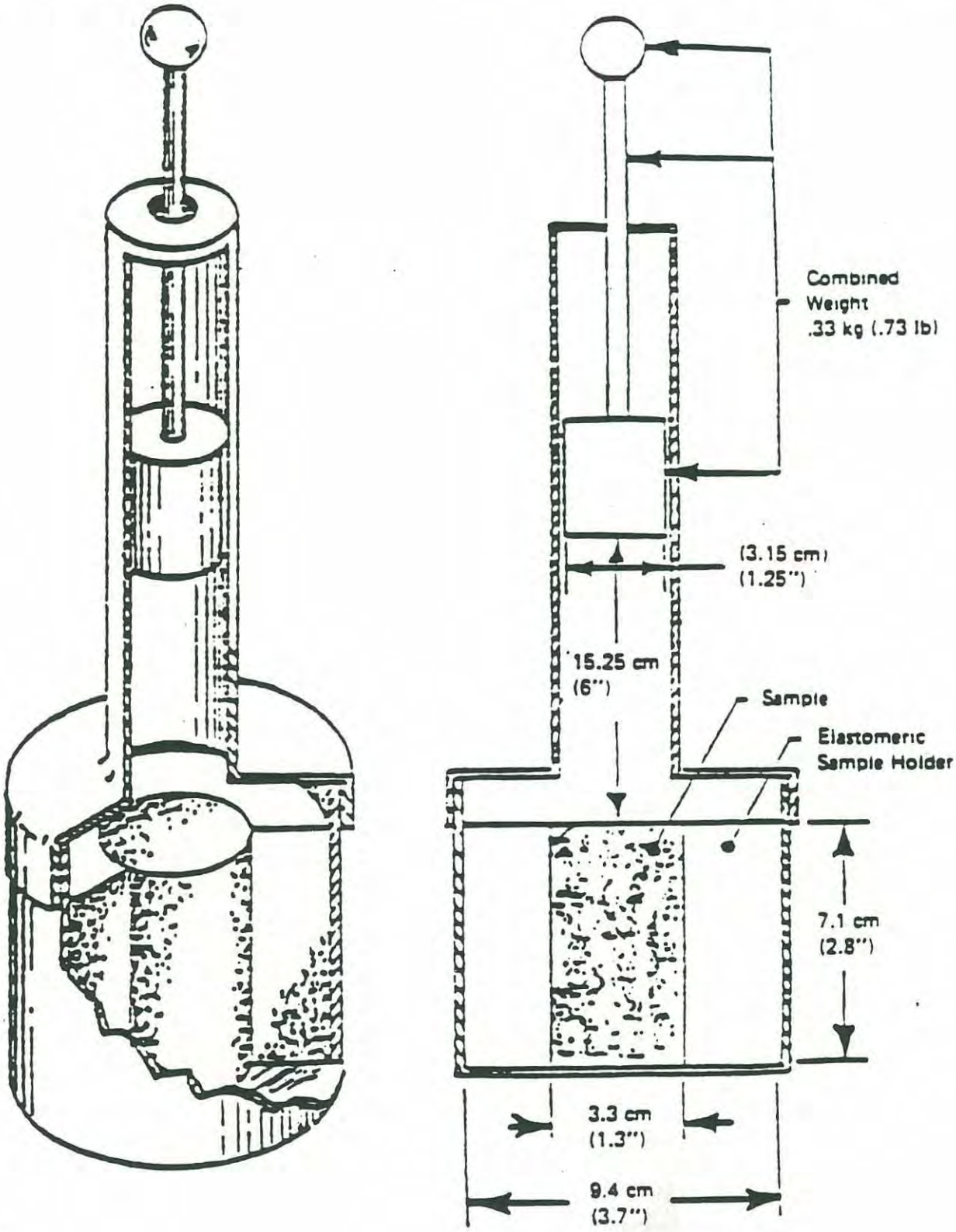


Figure 4. Compaction tester.

PART 270 -- EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

Subpart A -- General Information

Sec.

Subpart B -- Permit Application

Subpart C -- Permit Conditions

Authority: 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

Source: 48 FR 14228, Apr. 1, 1983, unless otherwise noted.

Subpart A -- General Information

§ 270.1 Purpose and scope of these regulations.

(a) Coverage. (1) These permit regulations establish provisions for the Hazardous Waste Permit Program under Subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (RCRA), (Pub. L. 94-580, as amended by Pub. L. 95-609 and by Pub. L. 96-482; 42 U.S.C. 6091 et seq.). They apply to EPA and to approved States to the extent provided in part 271.

(2) The regulations in this part cover basic EPA permitting requirements, such as application requirements, standard permit conditions, and monitoring and reporting requirements. These regulations are part of a regulatory scheme implementing RCRA set forth in different parts of the Code of Federal Regulations. The following chart indicates where the regulations implementing RCRA appear in the Code of Federal Regulations.

Section of RCRA	Coverage	Final regulation

SubtitleC	Overview and definitions.	40 CFR part 260
3001	Indentification and listing of hazardous waste.	40 CFR part 261
3002	Generators of hazardous waste.	40 CFR part 262
3003	Transporters of hazardous waste.	40 CFR part 263
3004	Standards for HWM facilities.	40 CFR parts 264, 265, 266, and 267
3005	Permit requirements for HWM facilities.	40 CFR parts 270 and 124
3006	Guidelines for State programs.	40 CFR part 271
3010	Preliminary notification of HWM activity.	(public notice) 45 FR 12746 February 26, 1980

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(3) Technical regulations. The RCRA permit program has separate additional Regulations that contain technical requirements. These separate regulations are used by permit issuing authorities to determine what requirements must be placed in permits if they are issued. These separate regulations are located in 40 CFR parts 264, 266, and 267.

(b) Overview of the RCRA Permit Program. Not later than 90 days after the promulgation or revision of regulations in 40 CFR part 261 (identifying and listing hazardous wastes) generators and transporters of hazardous waste, and owners or operators of hazardous waste treatment, storage, or disposal facilities may be required to file a notification of that activity under section 3010. Six months after the initial promulgation of the part 261 regulations, treatment, storage, or disposal of hazardous waste by any person who has not applied for or received a RCRA permit is prohibited. A RCRA permit application consists of two parts, Part A (see § 270.13) and Part B (see § 270.14 and applicable sections in §§ 270.15 through 270.29). For ``existing HWM facilities,'' the requirement to submit an application is satisfied by submitting only Part A of the permit application until the date the Director sets for submitting Part B of the application. (Part A consists of Forms 1 and 3 of the Consolidated Permit Application Forms.) Timely submission of both notification under section 3010 and Part A qualifies owners and operators of existing HWM facilities (who are required to have a permit) for interim status under section 3005(e) of RCRA. Facility owners and operators with interim status are treated as having been issued a permit until EPA or a State with interim authorization for Phase II or final authorization under part 271 makes a final determination on the permit application. Facility owners and operators with interim status must comply with interim status standards set forth at 40 CFR part 265 and 266 or with the analagous provisions of a State program which has received interim or final authorization under part 271. Facility owners and operators with interim status are not relieved from complying with other State requirements. For existing HWM facilities, the Director shall set a date, giving at least six months notice, for submission of Part B of the application. There is no form for Part B of the application; rather, Part B must be submitted in narrative form and contain the information set forth in the applicable sections of §§ 270.14 through 270.29. Owners or operators of new HWM facilities must submit parts A and B of the permit application at least 180 days before physical construction is expected to commence.

(c) Scope of the RCRA permit requirement. RCRA requires a permit for the ``treatment,'' ``storage,'' and ``disposal'' of any ``hazardous waste'' as identified or listed in 40 CFR part 261. The terms ``treatment,'' ``storage,'' ``disposal,'' and ``hazardous waste'' are defined in § 270.2. Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit. Owners or operators of surface impoundments, landfills, land treatment units, and waste pile units that received wastes after July 26, 1982, or that certified closure (according to § 265.115) after January 26, 1983, must have post-closure permits, unless they demonstrate closure by removal as provided under § 270.1(c)(5) and (6). If a post-closure permit is required, the permit must address applicable part 264 Groundwater Monitoring, Unsaturated Zone Monitoring, Corrective Action, and Post-closure Care Requirements of this chapter. The denial of a permit for the active life of a hazardous waste management facility or unit does not affect the requirement to obtain a post-closure permit under this section.

(1) Specific inclusions. Owners and operators of certain facilities require RCRA permits as well as permits under other programs for certain aspects of the facility operation. RCRA permits are required for:

(i) Injection wells that dispose of hazardous waste, and associated surface facilities that treat, store or dispose of hazardous waste, (See § 270.64). However, the owner and operator with a UIC permit in a State with an approved or promulgated UIC program, will be deemed to have a RCRA permit for the injection well itself if they comply with the requirements of § 270.60(b) (permit-by-rule for injection wells).

(ii) Treatment, storage, or disposal of hazardous waste at facilities requiring an NPDES permit. However, the owner and operator of a publicly owned treatment works receiving hazardous waste will be deemed to have a RCRA permit for that waste if they comply with the requirements of § 270.60(c) (permit-by-rule for POTWs).

(iii) Barges or vessels that dispose of hazardous waste by ocean disposal and onshore hazardous waste treatment or storage facilities associated with an ocean disposal operation. However, the owner and operator will be deemed to have a RCRA permit for ocean disposal from the barge or vessel itself it they comply with the requirements of § 270.60(a) (permit-by-rule for ocean disposal barges and vessels).

(2) Specific exclusions. The following persons are among those who are not required to obtain a RCRA permit:

(i) Generators who accumulate hazardous waste on-site for less than the time periods provided in 40 CFR 262.34.

(ii) Farmers who dispose of hazardous waste pesticides from their own use as provided in § 262.70 of this chapter;

(iii) Persons who own or operate facilities solely for the treatment, storage or disposal of hazardous waste excluded from regulations under this part by 40 CFR 261.4 or 261.5 (small generator exemption).

(iv) Owners or operators of totally enclosed treatment facilities as defined in 40 CFR 260.10.

(v) Owners and operators of elementary neutralization units or wastewater treatment units as defined in 40 CFR 260.10.

(vi) Transporters storing manifested shipments of hazardous waste in containers meeting the requirements of 40 CFR 262.30 at a transfer facility for a period of ten days or less.

(vii) Persons adding absorbant material to waste in a container (as defined in § 260.10 of this chapter) and persons adding waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and §§ 264.17(b), 264.171, and 264.172 of this chapter are complied with.

(3) Further exclusions. (i) A person is not required to obtain an RCRA permit for treatment or containment activities taken during immediate response to any of the following situations:

(A) A discharge of a hazardous waste;

(B) An imminent and substantial threat of a discharge of hazardous waste;

(C) A discharge of a material which, when discharged, becomes a hazardous waste.

(ii) Any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this part for those activities.

(4) Permits for less than an entire facility. EPA may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility. The interim status of any unit for which a permit has not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility.

(5) Closure by removal. Owners/operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination under part 265 standards must obtain a post-closure permit unless they can demonstrate to the Regional Administrator that the closure met the standards for closure by removal or decontamination in § 264.228, § 264.280(e), or § 264.258, respectively. The demonstration may be made in the following ways:

(i) If the owner/operator has submitted a Part B application for a post-closure permit, the owner/operator may request a determination, based on information contained in the application, that section 264 closure by removal standards were met. If the Regional Administrator believes that § 264 standards were met, he/she will notify the public of this proposed decision, allow for public comment, and reach a final determination according to the procedures in paragraph (c)(6) of this section.

(ii) If the owner/operator has not submitted a Part B application for a post-closure permit, the owner/operator may petition the Regional Administrator for a determination that a post-closure permit is not required because the closure met the applicable part 264 closure standards.

(A) The petition must include data demonstrating that closure by removal or decontamination standards were met, or it must demonstrate that the unit closed under State requirements that met or exceeded the applicable 264 closure-by-removal standard.

(B) The Regional Administrator shall approve or deny the petition according to the procedures outlined in paragraph (c)(6) of this section.

(6) Procedures for closure equivalency determination. (i) If a facility owner/operator seeks an equivalency demonstration under § 270.1(c)(5), the Regional Administrator will provide the public, through a newspaper notice, the opportunity to submit written comments on the information submitted by the owner/operator within 30 days from the date of the notice. The Regional Administrator will also, in response to a request or at his/her own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the equivalence of the part 265 closure to a part 264 closure. The Regional Administrator will give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined.)

(ii) The Regional Administrator will determine whether the part 265 closure met 264 closure by removal or decontamination requirements within 90 days of its receipt. If the Regional Administrator finds that the closure did not meet the applicable part 264 standards, he/she will provide the owner/operator with a written statement of the reasons why the closure failed to meet part 264 standards. The owner/operator may submit additional information in support of an equivalency demonstration within 30 days after receiving such written statement. The Regional Administrator will review any additional information submitted and make a final determination within 60 days.

(iii) If the Regional Administrator determines that the facility did not close in accordance with part 264 closure by removal standards, the facility is subject to post-closure permitting requirements.

[48 FR 14228, Apr. 1, 1983, as amended at 48 FR 30113, June 30, 1983; 51 FR 10176, Mar. 24, 1986; 52 FR 45798, Dec. 1, 1987; 53 FR 27165, July 19, 1988; 54 FR 9607, Mar. 7, 1989; 56 FR 32692, July 17, 1991]

§ 270.2 Definitions.

The following definitions apply to parts 270, 271 and 124. Terms not defined in this section have the meaning given by RCRA.

``Administrator'' means the Administrator of the United States Environmental Protection Agency, or an authorized representative.

``Application'' means the EPA standard national forms for applying for a permit, including any additions, revisions or modifications to the forms; or forms approved by EPA for use in approved States, including any approved modifications or revisions. Application also includes the information required by the Director under §§ 270.14 through 270.29 (contents of Part B of the RCRA application).

``Approved program or approved State'' means a State which has been approved or authorized by EPA under part 271.

``Aquifer'' means a geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

``Closure'' means the act of securing a Hazardous Waste Management facility pursuant to the requirements of 40 CFR part 264.

``Component'' means any constituent part of a unit or any group of constituent parts of a unit which are assembled to perform a specific function (e.g., a pump seal, pump, kiln liner, kiln thermocouple).

``CWA'' means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act amendments of 1972) Pub. L. 92-500, as amended by Pub. L. 92-217 and Pub. L. 95-576; 33 U.S.C. 1251 et seq.

``Director'' means the Regional Administrator or the State Director, as the context requires, or an authorized representative. When there is no approved State program, and there is an EPA administered program, Director means the Regional Administrator. When there is an approved State program, Director normally means the State Director. In some circumstances, however, EPA retains the authority to take certain actions even when there is an approved State program. In such cases, the term Director means the Regional Administrator and not the State Director.

``Disposal'' means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste into or on any land or water so that such hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground water.

``Disposal'' facility means a facility or part of a facility at which hazardous waste is intentionally placed into or on the land or water, and at which hazardous waste will remain after closure.

``Draft permit'' means a document prepared under § 124.6 indicating the Director's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a permit. A notice of intent to terminate a permit, and a notice of intent to deny a permit, as discussed in § 124.5, are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination, as discussed in § 124.5 is not a ``draft permit.'' A proposed permit is not a draft permit.

``Elementary neutralization unit'' means a device which:

(a) Is used for neutralizing wastes only because they exhibit the corrosivity characteristic defined in § 261.22 of this chapter, or are listed in subpart D of part 261 of this chapter only for this reason; and

(b) Meets the definition of tank, tank system, container, transport vehicle, or vessel in § 260.10 of this chapter.

``Emergency permit'' means a RCRA permit issued in accordance with § 270.61.

``Environmental Protection Agency (EPA)'' means the United States Environmental Protection Agency.

``EPA'' means the United States Environmental Protection Agency.

``Existing hazardous waste management (HWM) facility or existing facility'' means a facility which was in operation or for which construction commenced on or before November 19, 1980. A facility has commenced construction if:

(a) The owner or operator has obtained the Federal, State and local approvals or permits necessary to begin physical construction; and either

(b)(1) A continuous on-site, physical construction program has begun; or

(2) The owner or operator has entered into contractual obligations which cannot be cancelled or modified without substantial loss -- for physical construction of the facility to be completed within a reasonable time.

``Facility mailing list'' means the mailing list for a facility maintained by EPA in accordance with 40 CFR 124.10(c)(viii).

``Facility or activity'' means any HWM facility or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the RCRA program.

``Federal, State and local approvals or permits necessary to begin physical construction'' means permits and approvals required under Federal, State or local hazardous waste control statutes, regulations or ordinances.

``Final authorization'' means approval by EPA of a State program which has met the requirements of section 3006(b) of RCRA and the applicable requirements of part 271, subpart A.

``Functionally equivalent component'' means a component which performs the same function or measurement and which meets or exceeds the performance specifications of another component.

``Generator'' means any person, by site location, whose act, or process produces ``hazardous waste'' identified or listed in 40 CFR part 261.

``Ground water'' means water below the land surface in a zone of saturation.

``Hazardous waste'' means a hazardous waste as defined in 40 CFR 261.3.

``Hazardous Waste Management facility (HWM facility)'' means all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments, or combinations of them).

``HWM facility'' means Hazardous Waste Management facility.

``Injection well'' means a well into which fluids are being injected.

``In operation'' means a facility which is treating, storing, or disposing of hazardous waste.

``Interim authorization'' means approval by EPA of a State hazardous waste program which has met the requirements of section 3006(c) of RCRA and applicable requirements of part 271, subpart B.

``Major facility'' means any facility or activity classified as such by the Regional Administrator, or, in the case of approved State programs, the Regional Administrator in conjunction with the State Director.

``Manifest'' means the shipping document originated and signed by the generator which contains the information required by subpart B of 40 CFR part 262.

``National Pollutant Discharge Elimination System'' means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the CWA. The term includes an approved program.

``NPDES'' means National Pollutant Discharge Elimination System.

``New HWM facility'' means a Hazardous Waste Management facility which began operation or for which construction commenced after November 19, 1980.

``Off-site'' means any site which is not on-site.

``On-site'' means on the same or geographically continguous property which may be divided by public or private right(s)-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along, the right(s)-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way which the person controls and to which the public does not have access, is also considered on-site property.

``Owner or operator'' means the owner or operator of any facility or activity subject to regulation under RCRA.

``Permit'' means an authorization, license, or equivalent control document issued by EPA or an approved State to implement the requirements of this part and parts 271 and 124. Permit includes permit by rule (§ 270.60), and emergency permit (§ 270.61). Permit does not include RCRA interim status (subpart G of this part), or any permit which has not yet been the subject of final agency action, such as a draft permit or a proposed permit.

``Permit-by-rule'' means a provision of these regulations stating that a facility or activity is deemed to have a RCRA permit if it meets the requirements of the provision.

``Person'' means an individual, association, partnership, corporation, municipality, State or Federal agency, or an agent or employee thereof.

``Phase I'' means that phase of the Federal hazardous waste management program commencing on the effective date of the last of the following to be initially promulgated: 40 CFR parts 260, 261, 262, 263, 265, 270 and 271. Promulgation of Phase I refers to promulgation of the regulations necessary for Phase I to begin.

``Phase II'' means that phase of Federal hazardous waste management program commencing on the effective date of the first subpart of 40 CFR part 264, subparts F through R to be initially promulgated. Promulgation of Phase II refers to promulgation of the regulations necessary for Phase II to begin.

``Physical construction'' means excavation, movement of earth, erection of forms or structures, or similar activity to prepare an HWM facility to accept hazardous waste.

``POTW'' means publicly owned treatment works.

``Publicly owned treatment works (POTW)'' means any device or system unsed in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a State or municipality. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

``RCRA'' means the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580, as amended by Pub. L. 95-609 and Pub. L. 96-482, 42 U.S.C. 6901 et seq.)

``Regional Administrator'' means the Regional Administrator of the appropriate Regional Office of the Environmental Protection Agency or the authorized representative of the Regional Administrator.

``Schedule of compliance'' means a schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the Act and regulations.

``SDWA'' means the Safe Drinking Water Act (Pub. L. 95-523, as amended by Pub. L. 95-1900; 42 U.S.C. 3001 et seq.).

``Site'' means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

``State'' means any of the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

``State Director'' means the chief administrative officer of any State agency operating an approved program, or the delegated representative of the State Director. If responsibility is divided among two or more State agencies, State Director means the chief administrative officer of the State agency authorized to perform the particular procedure or function to which reference is made.

``State/EPA Agreement'' means an agreement between the Regional Administrator and the State which coordinates EPA and State activities, responsibilities and programs.

``Storage'' means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed, or stored elsewhere.

``Transfer facility'' means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

``Transporter'' means a person engaged in the off-site transportation of hazardous waste by air, rail, highway or water.

``Treatment'' means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such wastes, or so as to recover energy or material resources from the waste, or so as to render such waste non-hazardous, or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.

``UIC'' means the Underground Injection Control Program under Part C of the Safe Drinking Water Act, including an approved program.

``Underground injection'' means a well injection.

``Underground source of drinking water (USDW)'' means an aquifer or its portion:

(a)(1) Which supplies any public water system; or

(2) Which contains a sufficient quantity of ground water to supply a public water system; and

(i) Currently supplies drinking water for human consumption; or

(ii) Contains fewer than 10,000 mg/l total dissolved solids; and

(b) Which is not an exempted aquifer.

``USDW'' means underground source of drinking water.

``Wastewater treatment unit'' means a device which:

(a) Is part of a wastewater treatment facility which is subject to regulation under either section 402 or 307(b) of the Clean Water Act; and

(b) Receives and treats or stores an influent wastewater which is a hazardous waste as defined in § 261.3 of this chapter, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as

defined in § 261.3 of this chapter, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in § 261.3 of this chapter; and

(c) Meets the definition of tank or tank system in § 260.10 of this chapter.

[48 FR 14228, Apr. 1, 1983, as amended at 48 FR 30113, June 30, 1983; 53 FR 34087, Sept. 2, 1988; 53 FR 37935, Sept. 28, 1988]

§ 270.3 Considerations under Federal law.

The following is a list of Federal laws that may apply to the issuance of permits under these rules. When any of these laws is applicable, its procedures must be followed. When the applicable law requires consideration or adoption of particular permit conditions or requires the denial of a permit, those requirements also must be followed.

(a) The Wild and Scenic Rivers Act. 16 U.S.C. 1273 et seq. Section 7 of the Act prohibits the Regional Administrator from assisting by license or otherwise the construction of any water resources project that would have a direct, adverse effect on the values for which a national wild and scenic river was established.

(b) The National Historic Preservation Act of 1966. 16 U.S.C. 470 et seq. Section 106 of the Act and implementing regulations (36 CFR part 800) require the Regional Administrator, before issuing a license, to adopt measures when feasible to mitigate potential adverse effects of the licensed activity and properties listed or eligible for listing in the National Register of Historic Places. The Act's requirements are to be implemented in cooperation with State Historic Preservation Officers and upon notice to, and when appropriate, in consultation with the Advisory Council on Historic Preservation.

(c) The Endangered Species Act. 16 U.S.C. 1531 et seq. Section 7 of the Act and implementing regulations (50 CFR part 402) require the Regional Administrator to ensure, in consultation with the Secretary of the Interior or Commerce, that any action authorized by EPA is not likely to jeopardize the continued existence of any endangered or threatened species or adversely affect its critical habitat.

(d) The Coastal Zone Management Act. 16 U.S.C. 1451 et seq. Section 307(c) of the Act and implementing regulations (15 CFR part 930) prohibit EPA from issuing a permit for an activity affecting land or water use in the coastal zone until the applicant certifies that the proposed activity complies with the State Coastal Zone Management program, and the State or its designated agency concurs with the certification (or the Secretary of Commerce overrides the State's nonconcurrence).

(e) The Fish and Wildlife Coordination Act. 16 U.S.C. 661 et seq. requires that the Regional Administrator, before issuing a permit proposing or authorizing the impoundment (with certain exemptions), diversion, or other control or modification of any body of water, consult with the appropriate State agency exercising jurisdiction over wildlife resources to conserve those resources.

(f) Executive orders. [Reserved]

(Clean Water Act (33 U.S.C. 1251 et seq.), Safe Drinking Water Act (42 U.S.C. 300f et seq.), Clean Air Act (42 U.S.C. 7401 et seq.), Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.)).

[48 FR 14228, Apr 1, 1983, as amended at 48 FR 39622, Sept. 1, 1983]

§ 270.4 Effect of a permit.

(a) Compliance with an RCRA permit during its term constitutes compliance for purpose of enforcement, with Subtitle C of RCRA except for those requirements not included in the permit which become effective by statute, or which are promulgated under part 268 of this chapter restricting the placement of hazardous wastes in or on the land.

(b) The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

(c) The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.

[48 FR 14228, Apr. 1, 1983, as amended at 52 FR 45799, Dec. 1, 1987]

Editorial Note: At 53 FR 37935, September 28, 1988, a rule document incorrectly amended § 270.4 by revising the last sentence of paragraph (a) to read as follows:

The existing text in § 270.4(a) included only one sentence, therefore, this amendment could not be incorporated. At a later date, EPA will publish a document in the Federal Register to correctly amend this paragraph.

§ 270.5 Noncompliance and program reporting by the Director.

The Director shall prepare quarterly and annual reports as detailed below. When the State is the permit-issuing authority, the State Director shall submit any reports required under this section to the Regional Administrator. When EPA is the permit-issuing authority, the Regional Administrator shall submit any report required under this section to EPA Headquarters. For purposes of this section only, RCRA permittees shall include RCRA interim status facilities, when appropriate.

(a) Quarterly reports. The Director shall submit quarterly narrative reports for major facilities as follows:

(1) Format. The report shall use the following format:

(i) Information on noncompliance for each facility;

(ii) Alphabetize by permittee name. When two or more permittees have the same name, the lowest permit number shall be entered first;

(iii) For each entry on the list, include the following information in the following order:

(A) Name, location, and permit number of the noncomplying permittee.

(B) A brief description and date of each instance of noncompliance for that permittee. Instances of noncompliance may include one or more of the kinds set forth in paragraph (a)(2) of this section. When a permittee has noncompliance of more than one kind, combine the information into a single entry for each such permittee.

(C) The date(s) and a brief description of the action(s) taken by the Director to ensure compliance.

(D) Status of the instance(s) of noncompliance with the date of the review of the status or the date of resolution.

(E) Any details which tend to explain or mitigate the instance(s) of noncompliance.

(2) Instances of noncompliance to be reported. Any instances of noncompliance within the following categories shall be reported in successive reports until the noncompliance is reported as resolved. Once noncompliance is reported as resolved it need not appear in subsequent reports.

(i) Failure to complete construction elements. When the permittee has failed to complete, by the date specified in the permit, an element of a compliance schedule involving either planning for construction (for example, award of a contract, preliminary plans), or a construction step (for example, begin construction, attain operation level); and the permittee has not returned to compliance by accomplishing the required element of the schedule within 30 days from the date a compliance schedule report is due under the permit.

(ii) Modifications to schedules of compliance. When a schedule of compliance in the permit has been modified under § 270.41 or § 270.42 because of the permittee's noncompliance.

(iii) Failure to complete or provide compliance schedule or monitoring reports. When the permittee has failed to complete or provide a report required in a permit compliance schedule (for example, progress report or notice of noncompliance or compliance) or a monitoring report; and the permittee has not submitted the complete report within 30 days from the date it is due under the permit for compliance schedules, or from the date specified in the permit for monitoring reports.

(iv) Deficient reports. When the required reports provided by the permittee are so deficient as to cause misunderstanding by the Director and thus impede the review of the status of compliance.

(v) Noncompliance with other permit requirements. Noncompliance shall be reported in the following circumstances:

(A) Whenever the permittee has violated a permit requirement (other than reported under paragraph (a)(2)(i) or (ii) of this section), and has not returned to compliance within 45 days from the date reporting of noncompliance was due under the permit; or

(B) When the Director determines that a pattern of noncompliance exists for a major facility permittee over the most recent four consecutive reporting periods. This pattern includes any violation of the same requirement in two consecutive reporting periods, and any violation of one or more requirements in each of four consecutive reporting periods; or

(C) When the Director determines significant permit non-compliance or other significant event has occurred such as a fire or explosion or migration of fluids into a USDW.

(vi) All other. Statistical information shall be reported quarterly on all other instances of noncompliance by major facilities with permit requirements not otherwise reported under paragraph (a) of this section.

(b) Annual reports -- (1) Annual noncompliance report. Statistical reports shall be submitted by the Director on nonmajor RCRA permittees indicating the total number reviewed, the number of noncomplying nonmajor permittees, the number of enforcement actions, and number of permit modifications extending compliance deadlines. The statistical information shall be organized to follow the types of noncompliance listed in paragraph (a) of this section.

(2) In addition to the annual noncompliance report, the Director shall prepare a ``program report'' which contains information (in a manner and form prescribed by the Administrator) on generators and transporters and the permit status of regulated facilities. The Director shall also include, on a biennial basis, summary information on the quantities and types of hazardous wastes generated, transported, treated, stored and disposed during the preceding odd-numbered year. This summary information shall be reported in a manner and form prescribed by the Administrator and shall be reported according to EPA characteristics and lists of hazardous wastes at 40 CFR part 261.

(c) Schedule. (1) For all quarterly reports. On the last working day of May, August, November, and February, the State Director shall submit to the Regional Administrator information concerning noncompliance with RCRA permit requirements by major facilities in the State in accordance with the following schedule. The Regional Administrator shall prepare and submit information for EPA-issued permits to EPA Headquarters in accordance with the same schedule.

Quarters Covered by Reports on Noncompliance by Major Dischargers
[Date for completion of reports]

January, February, and March	[1]May 31
April, May, and June	[1]August 31
July, August, and September	[1]November 30
October, November, and December	[1]February 28

FOOTNOTE: [1]Reports must be made available to the public for inspection and copying on this date.

[48 FR 14228, Apr. 1, 1983, as amended at 48 FR 30113, June 30, 1983]

§ 270.6 References.

(a) When used in part 270 of this chapter, the following publications are incorporated by reference:

``Test Methods for Evaluating Solid Waste, Physical/Chemical Methods'', EPA Publication SW-846 [Second Edition, 1982 as amended by Update I (April, 1984), and Update II (April, 1985)]. The second edition of SW-846 and Updates I, II and III are available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4600, as document no. PB 87-120-291. The cost is $48.95 for paper and $13.50 for microfiche.

(b) The references listed in paragraph (a) of this section are also available for inspection at the Office of the Federal Register, 1100 L Street, NW., Washington, DC 20408. These incorporations by reference were approved by the Director of the Federal Register. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the Federal Register.

[48 FR 14228, Apr. 1, 1983, as amended at 48 FR 30113, June 30, 1983; 52 FR 8073, Mar. 16, 1987]

Subpart B -- Permit Application

§ 270.10 General application requirements.

(a) Permit application. Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit an application to the Director as described in this section and §§ 270.70 through 270.73. Persons currently authorized with interim status shall apply for permits when required by the Director. Persons covered by RCRA permits by rule (§ 270.60), need not apply. Procedures for applications, issuance and administration of emergency permits are found exclusively in § 270.61. Procedures for application, issuance and administration of research, development, and demonstration permits are found exclusively in § 270.65.

(b) Who applies? When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit, except that the owner must also sign the permit application.

(c) Completeness. The Director shall not issue a permit before receiving a complete application for a permit except for permits by rule, or emergency permits. An application for a permit is complete when the Director receives an application form and any supplemental information which are completed to his satisfaction. An application for a permit is complete notwithstanding the failure of the owner or operator to submit the exposure information described in paragraph (j) of this section. The Director may deny a permit for the active life of a hazardous waste management facility or unit before receiving a complete application for a permit.

(d) Information requirements. All applicants for RCRA permits shall provide information set forth in § 270.13 and applicable sections in §§ 270.14 through 270.29 to the Director, using the application form provided by the Director.

(e) Existing HWM facilities and interim status qualifications. (1) Owners and operators of existing hazardous waste management facilities or of hazardous waste management facilities in existence on the effective date of statutory or regulatory amendments under the act that render the facility subject to the requirement to have a RCRA permit must submit part A of their permit application no later than:

(i) Six months after the date of publication of regulations which first require them to comply with the standards set forth in 40 CFR part 265 or 266, or

(ii) Thirty days after the date they first become subject to the standards set forth in 40 CFR part 265 or 266, whichever first occurs.

(iii) For generators generating greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and treats, stores, or disposes of these wastes on-site, by March 24, 1987.

Note: For facilities which must comply with part 265 because they handle a waste listed in EPA's May 19, 1980, part 261 regulations (45 FR 33006 et seq.), the deadline for submitting an application is November 19, 1980. Where other existing facilities must begin in complying with part 265 or 266 at a later date because of revisions to part 260, 261, 265, or 266, the Administrator will specify in the preamble to those revisions when those facilities must submit a permit application.

(2) The Administrator may by publication in the Federal Register extend the date by which owners and operators of specified classes of existing hazardous waste management facilities must submit Part A of their permit application if he finds that (i) there has been substantial confusion as to whether the owners and operators of such facilities were required to file a permit application and (ii) such confusion is attributed to ambiguities in EPA's parts 260, 261, 265, or 266 regulations.

(3) The Administrator may by compliance order issued under section 3008 of RCRA extend the date by which the owner and operator of an existing hazardous waste management facility must submit Part A of their permit application.

(4) At any time after promulgation of Phase II the owner and operator of an existing HWM facility may be required to submit Part B of their permit application. The State Director may require submission of Part B (or equivalent completion of the State RCRA application process) if the State in which the facility is located has received interim authorization for Phase II or final authorization; if not, the Regional Administrator may require submission of Part B. Any owner or operator shall be allowed at least six months from the date of request to submit Part B of the application. Any owner or operator of an existing HWM facility may voluntarily submit Part B of the application at any time. Notwithstanding the above, any owner or operator of an existing HWM facility must submit a Part B permit application in accordance with the dates specified in § 270.73. Any owner or operator of a land disposal facility in existence on the effective date of statutory or regulatory amendments under this Act that render the facility subject to the requirement to have a RCRA permit must submit a Part B application in accordance with the dates specified in § 270.73.

(5) Failure to furnish a requested Part B application on time, or to furnish in full the information required by the Part B application, is grounds for termination of interim status under part 124.

(f) New HWM facilities. (1) Except as provided in paragraph (f)(3) of this section, no person shall begin physical construction of a new HWM facility without having submitted Parts A and B of the permit application and having received a finally effective RCRA permit.

(2) An application for a permit for a new HWM facility (including both Parts A and B) may be filed any time after promulgation of those standards in part 264, subpart I et seq. applicable to such facility. The application shall be filed with the Regional Administrator if at the time of application the State in which the new HWM facility is proposed to be located has not received Phase II interim authorization for permitting such facility or final authorization; otherwise it shall be filed with the State Director. Except as provided in paragraph (f)(3) of this section, all applications must be submitted at least 180 days before physical construction is expected to commence.

(3) Notwithstanding paragraph (f)(1) of this section, a person may construct a facility for the incineration of polychlorinated biphenyls pursuant to an approval issued by the Administrator under section (6)(e) of the Toxic Substances Control Act and any person owning or operating such a facility may, at any time after construction or operation of such facility has begun, file an application for a RCRA permit to incinerate hazardous waste authorizing such facility to incinerate waste identified or listed under Subtitle C of RCRA.

(g) Updating permit applications. (1) If any owner or operator of a HWM facility has filed Part A of a permit application and has not yet filed Part B, the owner or operator shall file an amended Part A application:

(i) With the Regional Administrator, if the facility is located in a State which has not obtained interim authorization for phase II or final authorization, within six months after the promulgation of revised regulations under part 261 listing or identifying additional hazardous wastes, if the facility is treating, storing, or disposing of any of those newly listed or identified wastes.

(ii) With the State Director, if the facility is located in a State which has obtained Phase II interim authorization or final authorization, no later than the effective date of regulatory provisions listing or designating wastes as hazardous in that State in addition to those listed or designated under the previously approved State program, if the facility is treating, storing, or disposing of any of those newly listed or designated wastes; or

(iii) As necessary to comply with provisions of § 270.72 for changes during interim status or with the analogous provisions of a State program approved for final authorization or interim authorization for Phase II. Revised Part A applications necessary to comply with the provisions of § 270.72 shall be filed with the Regional Administrator if the State in which the facility in question is located does not have Phase II interim authorization or final authorization; otherwise it shall be filed with the State Director (if the State has an analogous provision).

(2) The owner or operator of a facility who fails to comply with the updating requirements of paragraph (g)(1) of this section does not receive interim status as to the wastes not covered by duly filed Part A applications.

(h) [redacted]

(i) Recordkeeping. Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under §§ 270.10(d), 270.13, 270.14 through 270.21 for a period of at least 3 years from the date the application is signed.

(j) Exposure information. (1) After August 8, 1985, any Part B permit application submitted by an owner or operator of a facility that stores, treats, or disposes of hazardous waste in a surface impoundment or a landfill must be accompanied by information, reasonably ascertainable by the owner or operator, on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. At a minimum, such information must address:

(i) Reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the unit;

(ii) The potential pathways of human exposure to hazardous wastes or constituents resulting from the releases described under paragraph (j)(1)(i) of this section; and

(iii) The potential magnitude and nature of the human exposure resulting from such releases.

(2) By August 8, 1985, owners and operators of a landfill or a surface impoundment who have already submitted a Part B application must submit the exposure information required in paragraph (j)(1) of this section.

(k) The Director may require a permittee or an applicant to submit information in order to establish permit conditions under §§ 270.32(b)(2) and 270.50(d) of this chapter.

(Approved by the Office of Management and Budget under control numbers 2050-0009, 2050-0002, and 2050-0007)

[48 FR 14228, Apr. 1, 1983; 48 FR 30114, June 30, 1983, as amended at 50 FR 28751, July 15, 1985; 51 FR 10176, Mar. 24, 1986; 52 FR 45799, Dec. 1, 1987; 54 FR 9607, Mar. 7, 1989]

§ 270.11 Signatories to permit applications and reports.

(a) Applications. All permit applications shall be signed as follows:

(1) For a corporation: By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decisionmaking functions for the corporation, or (ii) the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Note: EPA does not require specific assignments or delegations of authority to responsible corporate officers identified in § 270.11(a)(1)(i). The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under § 270.11(a)(1)(ii) rather than to specific individuals.

(2) For a partnership or sole proprietorship; by a general partner or the proprietor, respectively; or

(3) For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

(b) Reports. All reports required by permits and other information requested by the Director shall be signed by a person described in paragraph (a) of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in paragraph (a) of this section;

(2) The authorization specifies either an individual or a position having responsibility for overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

(3) The written authorization is submitted to the Director.

(c) Changes to authorization. If an authorization under paragraph (b) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph (b) of this section must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

(d) Certification. Any person signing a document under paragraph (a) or (b) of this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to be the best

of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(Clean Water Act (33 U.S.C. 1251 et seq.), Safe Drinking Water Act (42 U.S.C. 300f et seq.), Clean Air Act (42 U.S.C. 7401 et seq.), Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.))

[48 FR 14228, Apr. 1, 1983, as amended at 48 FR 39622, Sept. 1, 1983]

§ 270.12 Confidentiality of information.

(a) In accordance with 40 CFR Part 2, any information submitted to EPA pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words ``confidential business information'' on each page containing such information. If no claim is made at the time of submission, EPA may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR Part 2 (Public Information).

(b) Claims of confidentiality for the name and address of any permit applicant or permittee will be denied.

§ 270.13 Contents of Part A of the permit application.

Part A of the RCRA application shall include the following information:

(a) The activities conducted by the applicant which require it to obtain a permit under RCRA.

(b) Name, mailing address, and location, including latitude and longitude of the facility for which the application is submitted.

(c) Up to four SIC codes which best reflect the principal products or services provided by the facility.

(d) The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public, or other entity.

(e) The name, address, and phone number of the owner of the facility.

(f) Whether the facility is located on Indian lands.

(g) An indication of whether the facility is new or existing and whether it is a first or revised application.

(h) For existing facilities, (1) a scale drawing of the facility showing the location of all past, present, and future treatment, storage, and disposal areas; and (2) photographs of the facility clearly delineating all existing structures; existing treatment, storage, and disposal areas; and sites of future treatment, storage, and disposal areas.

(i) A description of the processes to be used for treating, storing, and disposing of hazardous waste, and the design capacity of these items.

(j) A specification of the hazardous wastes listed or designated under 40 CFR part 261 to be treated, stored, or disposed of at the facility, an estimate of the quantity of such wastes to be treated, stored, or disposed annually, and a general description of the processes to be used for such wastes.

(k) A listing of all permits or construction approvals received or applied for under any of the following programs:

(1) Hazardous Waste Management program under RCRA.

(2) UIC program under the SWDA.

(3) NPDES program under the CWA.

(4) Prevention of Significant Deterioration (PSD) program under the Clean Air Act.

(5) Nonattainment program under the Clean Air Act.

(6) National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act.

(7) Ocean dumping permits under the Marine Protection Research and Sancturaies Act.

(8) Dredge or fill permits under section 404 of the CWA.

(9) Other relevant environmental permits, including State permits.

(l) A topographic map (or other map if a topographic map is unavailable) extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant within 1/4 mile of the facility property boundary.

(m) A brief description of the nature of the business.

§ 270.14 Contents of Part B: General requirements.

(a) Part B of the permit application consists of the general information requirements of this section, and the specific information requirements in §§ 270.14 through 270.29 applicable to the facility. The Part B information requirements presented in §§ 270.14 through 270.29 reflect the standards promulgated in 40 CFR part 264. These information requirements are necessary in order for EPA to determine compliance with the part 264 standards. If owners and operators of HWM facilities can demonstrate that the information prescribed in Part B can not be provided to the extent required, the Director may make allowance for submission of such information on a case-by-case basis. Information required in Part B shall be submitted to the Director and signed in accordance with requirements in § 270.11. Certain technical data, such as design drawings and specifications, and engineering studies shall be certified by a registered professional engineer.

(b) General information requirements. The following information is required for all HWM facilities, except as § 264.1 provides otherwise:

(1) A general description of the facility.

(2) Chemical and physical analyses of the hazardous wastes to be handled at the facility. At a minimum, these analyses shall contain all the information which must be known to treat, store, or dispose of the wastes properly in accordance with part 264.

(3) A copy of the waste analysis plan required by § 264.13(b) and, if applicable § 264.13(c).

(4) A description of the security procedures and equipment required by § 264.14, or a justification demonstrating the reasons for requesting a waiver of this requirement.

(5) A copy of the general inspection schedule required by § 264.15(b). Include, where applicable, as part of the inspection schedule, specific requirements in §§ 264.174, 264.193(i), 264.195, 264.226, 264.254, 264.273, 264.303, 264.602, 264.1033, 264.1052, 264.1053, and 264.1058.

(6) A justification of any request for a waiver(s) of the preparedness and prevention requirements of part 264, subpart C.

(7) A copy of the contingency plan required by part 264, subpart D. Note: Include, where applicable, as part of the contingency plan, specific requirements in §§ 264.227, 264.255, and 264.200.

(8) A description of procedures, structures, or equipment used at the facility to:

(i) Prevent hazards in unloading operations (for example, ramps, special forklifts);

(ii) Prevent runoff from hazardous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);

(iii) Prevent contamination of water supplies;

(iv) Mitigate effects of equipment failure and power outages;

(v) Prevent undue exposure of personnel to hazardous waste (for example, protective clothing); and

(vi) Prevent releases to atmosphere.

(9) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with § 264.17 including documentation demonstrating compliance with § 264.17(c).

(10) Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes (if appropriate); describe access road surfacing and load bearing capacity; show traffic control signals).

(11) Facility location information;

(i) In order to determine the applicability of the seismic standard [§ 264.18(a)] the owner or operator of a new facility must identify the political jurisdiction (e.g., county, township, or election district) in which the facility is proposed to be located.

[Comment: If the county or election district is not listed in appendix VI of part 264, no further information is required to demonstrate compliance with § 264.18(a).]

(ii) If the facility is proposed to be located in an area listed in appendix VI of part 264, the owner or operator shall demonstrate compliance with the seismic standard. This demonstration may be made using either published geologic data or data obtained from field investigations carried out by the applicant. The information provided must be of such quality to be acceptable to geologists experienced in identifying and evaluating seismic activity. The information submitted must show that either:

(A) No faults which have had displacement in Holocene time are present, or no lineations which suggest the presence of a fault (which have displacement in Holocene time) within 3,000 feet of a facility are present, based on data from:

(1) Published geologic studies,

(2) Aerial reconnaissance of the area within a five-mile radius from the facility.

(3) An analysis of aerial photographs covering a 3,000 foot radius of the facility, and

(4) If needed to clarify the above data, a reconnaissance based on walking portions of the area within 3,000 feet of the facility, or

(B) If faults (to include lineations) which have had displacement in Holocene time are present within 3,000 feet of a facility, no faults pass with 200 feet of the portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted, based on data from a comprehensive geologic analysis of the site. Unless a site analysis is otherwise conclusive concerning the absence of faults within 200 feet of such portions of the facility data shall be obtained from a subsurface exploration (trenching) of the area within a distance no less than 200 feet from portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted. Such trenching shall be performed in a direction that is perpendicular to known faults (which have had displacement in Holocene time) passing within 3,000 feet of the portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted. Such investigation shall document with supporting maps and other analyses, the location of faults found.

[Comment: The Guidance Manual for the Location Standards provides greater detail on the content of each type of seismic investigation and the appropriate conditions under which each approach or a combination of approaches would be used.]

(iii) Owners and operators of all facilities shall provide an identification of whether the facility is located within a 100-year floodplain. This identification must indicate the source of data for such determination and include a copy of the relevant Federal Insurance Administration (FIA) flood map, if used, or the calculations and maps used where an FIA map is not available. Information shall also be provided identifying the 100-year flood level and any other special flooding factors (e.g., wave action) which must be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a 100-year flood.

[Comment: Where maps for the National Flood Insurance Program produced by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency are available, they will normally be determinative of whether a facility is located within or outside of the 100-year floodplain. However, where the FIA map excludes an area (usually areas of the floodplain less than 200 feet in width), these areas must be considered and a determination made as to whether they are in the 100-year floodplain. Where FIA maps are not available for a proposed facility location, the owner or operator must use equivalent mapping techniques to determine whether the facility is within the 100-year floodplain, and if so located, what the 100-year flood elevation would be.]

(iv) Owners and operators of facilities located in the 100-year floodplain must provide the following information:

(A) Engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as consequence of a 100-year flood.

(B) Structural or other engineering studies showing the design of operational units (e.g., tanks, incinerators) and flood protection devices (e.g., floodwalls, dikes) at the facility and how these will prevent washout.

(C) If applicable, and in lieu of paragraphs (b)(11)(iv) (A) and (B) of this section, a detailed description of procedures to be followed to remove hazardous waste to safety before the facility is flooded, including:

(1) Timing of such movement relative to flood levels, including estimated time to move the waste, to show that such movement can be completed before floodwaters reach the facility.

(2) A description of the location(s) to which the waste will be moved and demonstration that those facilities will be eligible to receive hazardous waste in accordance with the regulations under parts 270, 271, 124, and 264 through 266 of this chapter.

(3) The planned procedures, equipment, and personnel to be used and the means to ensure that such resources will be available in time for use.

(4) The potential for accidental discharges of the waste during movement.

(v) Existing facilities NOT in compliance with § 264.18(b) shall provide a plan showing how the facility will be brought into compliance and a schedule for compliance.

(12) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the HWM facility in a safe manner as required to demonstrate compliance with § 264.16. A brief description of how training will be designed to meet actual job tasks in accordance with requirements in § 264.16(a)(3).

(13) A copy of the closure plan and, where applicable, the post-closure plan required by §§ 264.112, 264.118, and 264.197. Include, where applicable, as part of the plans, specific requirements in §§ 264.178, 264.197, 264.228, 264.258, 264.280, 264.310, 264.351, 264.601, and 264.603.

(14) For hazardous waste disposal units that have been closed, documentation that notices required under § 264.119 have been filed.

(15) The most recent closure cost estimate for the facility prepared in accordance with § 264.142 and a copy of the documentation required to demonstrate financial assurance under § 264.143. For a new facility, a copy of the required documentation may be submitted 60 days prior to the initial receipt of hazardous wastes, if that is later than the submission of the Part B.

(16) Where applicable, the most recent post-closure cost estimate for the facility prepared in accordance with § 264.144 plus a copy of the documentation required to demonstrate financial assurance under § 264.145. For a new facility, a copy of the required documentation may be submitted 60 days prior to the initial receipt of hazardous wastes, if that is later than the submission of the Part B.

(17) Where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of § 264.147. For a new facility, documentation showing the amount of insurance meeting the specification of § 264.147(a) and, if applicable, § 264.147(b), that the owner or operator plans to have in effect before initial receipt of hazardous waste for treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in § 264.147(c).

(18) Where appropriate, proof of coverage by a State financial mechanism in compliance with § 264.149 or § 264.150.

(19) A topographic map showing a distance of 1000 feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1

meters (20 feet). Owners and operators of HWM facilities located in mountainous areas should use large contour intervals to adequately show topographic profiles of facilities. The map shall clearly show the following:

(i) Map scale and date.

(ii) 100-year floodplain area.

(iii) Surface waters including intermittant streams.

(iv) Surrounding land uses (residential, commercial, agricultural, recreational).

(v) A wind rose (i.e., prevailing wind-speed and direction).

(vi) Orientation of the map (north arrow).

(vii) Legal boundaries of the HWM facility site.

(viii) Access control (fences, gates).

(ix) Injection and withdrawal wells both on-site and off-site.

(x) Buildings; treatment, storage, or disposal operations; or other structure (recreation areas, runoff control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.)

(xi) Barriers for drainage or flood control.

(xii) Location of operational units within the HWM facility site, where hazardous waste is (or will be) treated, stored, or disposed (include equipment cleanup areas).

Note: For large HWM facilities the Agency will allow the use of other scales on a case-by-case basis.

(20) Applicants may be required to submit such information as may be necessary to enable the Regional Administrator to carry out his duties under other Federal laws as required in § 270.3 of this part.

(21) For land disposal facilities, if a case-by-case extension has been approved under § 268.5 or a petition has been approved uner § 268.6, a copy of the notice of approval for the extension or petition is required.

(c) Additional information requirements. The following additional information regarding protection of groundwater is required from owners or operators of hazardous waste facilities containing a regulated unit except as provided in § 264.90(b) of this chapter:

(1) A summary of the ground-water monitoring data obtained during the interim status period under §§ 265.90 through 265.94, where applicable.

(2) Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including ground-water flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area).

(3) On the topographic map required under paragraph (b)(19) of this section, a delineation of the waste management area, the property boundary, the proposed ``point of compliance'' as defined under § 264.95, the proposed location of ground-water monitoring wells as required under § 264.97, and, to the extent possible, the information required in paragraph (c)(2) of this section.

(4) A description of any plume of contamination that has entered the ground water from a regulated unit at the time that the application was submitted that:

(i) Delineates the extent of the plume on the topographic map required under paragraph (b)(19) of this section;

(ii) Identifies the concentration of each appendix IX, of part 264 of this chapter, constituent throughout the plume or identifies the maximum concentrations of each appendix IX constituent in the plume.

(5) Detailed plans and an engineering report describing the proposed ground water monitoring program to be implemented to meet the requirements of § 264.97.

(6) If the presence of hazardous constituents has not been detected in the ground water at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of § 264.98. This submission must address the following items specified under § 264.98:

(i) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of hazardous constituents in the ground water;

(ii) A proposed ground-water monitoring system;

(iii) Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

(iv) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground-water monitoring data.

(7) If the presence of hazardous constituents has been detected in the ground water at the point of compliance at the time of the permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of § 264.99. Except as provided in § 264.98(h)(5), the owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of § 264.100, unless the owner or operator obtains written authorization in advance from the Regional Administrator to submit a proposed permit schedule for submittal of such a plan. To demonstrate compliance with § 264.99, the owner or operator must address the following items:

(i) A description of the wastes previously handled at the facility;

(ii) A characterization of the contaminated ground water, including concentrations of hazardous constituents;

(iii) A list of hazardous constituents for which compliance monitoring will be undertaken in accordance with §§ 264.97 and 264.99;

(iv) Proposed concentration limits for each hazardous constituent, based on the criteria set forth in § 264.94(a), including a justification for establishing any alternate concentration limits;

(v) Detailed plans and an engineering report describing the proposed ground-water monitoring system, in accordance with the requirements of § 264.97; and

(vi) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground-water monitoring data.

(8) If hazardous constituents have been measured in the ground water which exceed the concentration limits established under § 264.94 Table 1, or if ground water monitoring conducted at the time of permit application under §§ 265.90 through 265.94 at the waste boundary indicates the presence of hazardous constituents from the facility in ground water over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of § 264.100. However, an owner or operator is not required to submit information to establish a corrective action program if he demonstrates to the Regional Administrator that alternate concentration limits will protect human health and the environment after considering the criteria listed in § 264.94(b). An owner or operator who is not required to establish a corrective action program for this reason must instead submit sufficient information to establish a compliance monitoring program which meets the requirements of § 264.99 and paragraph (c)(6) of this section. To demonstrate compliance with § 264.100, the owner or operator must address, at a minimum, the following items:

(i) A characterization of the contaminated ground water, including concentrations of hazardous constituents;

(ii) The concentration limit for each hazardous constituent found in the ground water as set forth in § 264.94;

(iii) Detailed plans and an engineering report describing the corrective action to be taken; and

(iv) A description of how the ground-water monitoring program will demonstrate the adequacy of the corrective action.

(v) The permit may contain a schedule for submittal of the information required in paragraphs (c)(8)(iii) and (iv) provided the owner or operator obtains written authorization from the Regional Administrator prior to submittal of the complete permit application.

(d) Information requirements for solid waste management units.

(1) The following information is required for each solid waste management unit at a facility seeking a permit:

(i) The location of the unit on the topographic map required under paragraph (b)(19) of this section.

(ii) Designation of type of unit.

(iii) General dimensions and structural description (supply any available drawings).

(iv) When the unit was operated.

(v) Specification of all wastes that have been managed at the unit, to the extent available.

(2) The owner or operator of any facility containing one or more solid waste management units must submit all available information pertaining to any release of hazardous wastes or hazardous constituents from such unit or units.

(3) The owner/operator must conduct and provide the results of sampling and analysis of groundwater, landsurface, and subsurface strata, surface water, or air, which may include the installation of wells, where the Director ascertains it is necessary to complete a RCRA Facility Assessment that will determine if a more complete investigation is necessary.

(Approved by the Office of Management and Budget under control numbers 2050-0009, 2050-0002, and 2050-0007)

[48 FR 14228, Apr. 1, 1983; 48 FR 30114, June 30, 1983, as amended at 50 FR 2006, Jan. 14, 1985; 51 FR 16458, May 2, 1986; 51 FR 40653, Nov. 7, 1986; 52 FR 23450, July 9, 1987; 52 FR 25953, July 9, 1987; 52 FR 33936, Sept. 9, 1987; 52 FR 45799, Dec. 1, 1987; 52 FR 46965, Dec. 10, 1987; 54 FR 617, Jan. 9, 1989; 55 FR 25517, June 21, 1990]

§ 270.15 Specific Part B information requirements for containers.

Except as otherwise provided in § 264.170, owners or operators of facilities that store containers of hazardous waste must provide the following additional information:

(a) A description of the containment system to demonstrate compliance with § 264.175. Show at least the following:

(1) Basic design parameters, dimensions, and materials of construction.

(2) How the design promotes drainage or how containers are kept from contact with standing liquids in the containment system.

(3) Capacity of the containment system relative to the number and volume of containers to be stored.

(4) Provisions for preventing or managing run-on.

(5) How accumulated liquids can be analyzed and removed to prevent overflow.

(b) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with § 264.175(c), including:

(1) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and

(2) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids.

(c) Sketches, drawings, or data demonstrating compliance with § 264.176 (location of buffer zone and containers holding ignitable or reactive wastes) and § 264.177(c) (location of incompatible wastes), where applicable.

(d) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with §§ 264.177 (a) and (b), and 264.17 (b) and (c).

[48 FR 14228, Apr. 1, 1983; 48 FR 30114, June 30, 1983]

§ 270.16 Specific Part B information requirements for tank systems.

Except as otherwise provided in § 264.190, owners and operators of facilities that use tanks to store or treat hazardous waste must provide the following additional information:

(a) A written assessment that is reviewed and certified by an independent, qualified, registered professional engineer as to the structural integrity and suitability for handling hazardous waste of each tank system, as required under §§ 264.191 and 264.192;

(b) Dimensions and capacity of each tank;

(c) Description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents);

(d) A diagram of piping, instrumentation, and process flow for each tank system;

(e) A description of materials and equipment used to provide external corrosion protection, as required under § 264.192(a)(3)(ii);

(f) For new tank systems, a detailed description of how the tank system(s) will be installed in compliance with § 264.192 (b), (c), (d), and (e);

(g) Detailed plans and description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of § 264.193 (a), (b), (c), (d), (e), and (f);

(h) For tank systems for which a variance from the requirements of § 264.193 is sought (as provided by §§ 264.193(g)):

(1) Detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous waste or hazardous constituents into the ground water or surface water during the life of the facility, or

(2) A detailed assessment of the substantial present or potential hazards posed to human health or the environment should a release enter the environment.

(i) Description of controls and practices to prevent spills and overflows, as required under § 264.194(b); and

(j) For tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with the requirements of §§ 264.198 and 264.199.

(Information collection requirements contained in paragraphs (a)-(j) were approved by the Office of Management and Budget under control number 2050-0050)

[51 FR 25486, July 14, 1986; 51 FR 29431, Aug. 15, 1986]

§ 270.17 Specific Part B information requirements for surface impoundments.

Except as otherwise provided in § 264.1, owners and operators of facilities that store, treat or dispose of hazardous waste in surface impoundments must provide the following additional information:

(a) A list of the hazardous wastes placed or to be placed in each surface impoundment;

(b) Detailed plans and an engineering report describing how the surface impoundment is or will be designed, constructed, operated and maintained to meet the requirements of § 264.221. This submission must address the following items as specified in § 264.221:

(1) The liner system (except for an existing portion of a surface impoundment). If an exemption from the requirement for a liner is sought as provided by § 264.221(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in

conjunction with location aspects, prevent the migration of any hazardous constituents into the ground water or surface water at any future time;

(2) Prevention of overtopping; and

(3) Structural integrity of dikes;

(c) A description of how each surface impoundment, including the liner and cover systems and appurtenances for control of overtopping, will be inspected in order to meet the requirements of § 264.226(a) and (b). This information should be included in the inspection plan submitted under § 270.14(b)(5);

(d) A certification by a qualified engineer which attests to the structural integrity of each dike, as required under § 264.226(c). For new units, the owner or operator must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications;

(e) A description of the procedure to be used for removing a surface impoundment from service, as required under § 264.227(b) and (c). This information should be included in the contingency plan submitted under § 270.14(b)(7);

(f) A description of how hazardous waste residues and contaminated materials will be removed from the unit at closure, as required under § 264.228(a)(1). For any wastes not to be removed from the unit upon closure, the owner or operator must submit detailed-plans and an engineering report describing how § 264.228(a)(2) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under § 270.14(b)(13);

(g) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how § 264.229 will be complied with;

(h) If incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment, an explanation of how § 264.230 will be complied with.

(i) A waste management plan for EPA Hazardous Waste Nos. FO20, FO21, FO22, FO23, FO26, and FO27 describing how the surface impoundment is or will be designed, constructed, operated, and maintained to meet the requirements of § 264.231. This submission must address the following items as specified in § 264.231:

(1) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(2) The attenuative properties of underlying and surrounding soils or other materials;

(3) The mobilizing properties of other materials co-disposed with these wastes; and

(4) The effectiveness of additional treatment, design, or monitoring techniques.

[48 FR 14228, Apr. 1, 1983, as amended at 50 FR 2006, Jan. 14, 1985; 50 FR 28752, July 15, 1985]

§ 270.18 Specific Part B information requirements for waste piles.

Except as otherwise provided in § 264.1, owners and operators of facilities that store or treat hazardous waste in waste piles must provide the following additional information:

(a) A list of hazardous wastes placed or to be placed in each waste pile;

(b) If an exemption is sought to § 264.251 and subpart F of part 264 as provided by § 264.250(c) or § 264.90(2), an explanation of how the standards of § 264.250(c) will be complied with or detailed plans and an engineering report describing how the requirements of § 264.90(b)(2) will be met.

(c) Detailed plans and an engineering report describing how the pile is or will be designed, constructed, operated and maintained to meet the requirements of § 264.251. This submission must address the following items as specified in § 264.251:

(1) The liner system (except for an existing portion of a pile). If an exemption from the requirement for a liner is sought, as provided by § 264.252(b), the owner or operator must submit detailed plans and engineering and hydrogeologic reports, as applicable, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the ground water or surface water at any future time;

(2) Control of run-on;

(3) Control of run-off;

(4) Management of collection and holding units associated with run-on and run-off control systems; and

(5) Control of wind dispersal of particulate matter, where applicable;

(d) A description of how each waste pile, including the liner and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of § 264.254(a) and (b). This information should be included in the inspection plan submitted under § 270.14(b)(5).

(e) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals;

(f) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of § 264.256 will be complied with;

(g) If incompatible wastes, or incompatible wastes and materials will be place in a waste pile, an explanation of how § 264.257 will be complied with;

(h) A description of how hazardous waste residues and contaminated materials will be removed from the waste pile at closure, as required under § 264.258(a). For any waste not to be removed from the waste pile upon closure, the owner or operator must submit detailed plans and an engineering report describing how § 264.310 (a) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under § 270.14(b)(13).

(i) A waste management plan for EPA Hazardous Waste Nos. FO20, FO21, FO22, FO23, FO26, and FO27 describing how a waste pile that is not enclosed (as defined in § 264.250(c)) is or will be designed, constructed, operated, and maintained to meet the requirements of § 264.259. This submission must address the following items as specified in § 264.259:

(1) The volume, physical, and chemical characteristics of the wastes to be disposed in the waste pile, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(2) The attenuative properties of underlying and surrounding soils or other materials;

(3) The mobilizing properties of other materials co-disposed with these wastes; and

(4) The effectiveness of additional treatment, design, or monitoring techniques.

[48 FR 14228, Apr. 1, 1983, as amended at 50 FR 2006, Jan. 14, 1985; 50 FR 28752, July 15, 1985]

§ 270.19 Specific Part B information requirements for incinerators.

Except as § 264.340 of this chapter provides otherwise, owners and operators of facilities that incinerate hazardous waste must fulfill the requirements of (a), (b), or (c) of this section.

(a) When seeking an exemption under § 264.340 (b) or (c) of this chapter (Ignitable, corrosive, or reactive wastes only):

(1) Documentation that the waste is listed as a hazardous waste in part 261, subpart D of this chapter, solely because it is ignitable (Hazard Code I) or corrosive (Hazard Code C) or both; or

(2) Documentation that the waste is listed as a hazardous waste in part 261, subpart D of this chapter, solely because it is reactive (Hazard Code R) for characteristics other than those listed in § 261.23(a) (4) and (5) of this chapter, and will not be burned when other hazardous wastes are present in the combustion zone; or

(3) Documentation that the waste is a hazardous waste solely because it possesses the characteristic of ignitability, corrosivity, or both, as determined by the tests for characteristics of hazardous waste under part 261, subpart C of this chapter; or

(4) Documentation that the waste is a hazardous waste solely because it possesses the reactivity characteristics listed in § 261.23(a) (1), (2), (3), (6), (7), or (8) of this chapter, and that it will not be burned when other hazardous wastes are present in the combustion zone; or

(b) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with § 270.62; or

(c) In lieu of a trial burn, the applicant may submit the following information:

(1) An analysis of each waste or mixture of wastes to be burned including:

(i) Heat value of the waste in the form and composition in which it will be burned.

(ii) Viscosity (if applicable), or description of physical form of the waste.

(iii) An identification of any hazardous organic constituents listed in part 261, appendix VIII, of this chapter, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in part 261, appendix VIII, of this chapter which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in ``Test methods for the evaluation of Solid Waste, Physical/Chemical Methods'' (incorporated by reference, see § 270.6 and referenced in 40 CFR part 261, appendix III), or their equivalent.

(iv) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods specified in ``Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods'' (incorporated by reference, see § 270.6).

(v) A quantification of those hazardous constituents in the waste which may be designated as POHC's based on data submitted from other trial or operational burns which demonstrate compliance with the performance standards in § 264.343 of this chapter.

(2) A detailed engineering description of the incinerator, including:

(i) Manufacturer's name and model number of incinerator.

(ii) Type of incinerator.

(iii) Linear dimension of incinerator unit including cross sectional area of combustion chamber.

(iv) Decription of auxiliary fuel system (type/feed).

(v) Capacity of prime mover.

(vi) Description of automatic waste feed cutoff system(s).

(vii) Stack gas monitoring and pollution control monitoring system.

(viii) Nozzle and burner design.

(ix) Construction materials.

(x) Location and description of temperature, pressure, and flow indicating devices and control devices.

(3) A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed. The data should include those items listed in paragraph (c)(1) of this section. This analysis should specify the POHC's which the applicant has idenitified in the waste for which a permit is sought, and any differeneces from the POHC's in the waste for which burn data are provided.

(4) The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available.

(5) A description of the results submitted from any previously conducted trial burn(s) including:

(i) Sampling and analysis techniques used to calculate performance standards in § 264.343 of this chapter,

(ii) Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement),

(6) The expected incinerator operation information to demonstrate compliance with §§ 264.343 and 264.345 of this chapter including:

(i) Expected carbon monoxide (CO) level in the stack exhaust gas.

(ii) Waste feed rate.

(iii) Combustion zone temperature.

(iv) Indication of combustion gas velocity.

(v) Expected stack gas volume, flow rate, and temperature.

(vi) Computed residence time for waste in the combustion zone.

(vii) Expected hydrochloric acid removal efficiency.

(viii) Expected fugitive emissions and their control procedures.

(ix) Proposed waste feed cut-off limits based on the identified significant operating parameters.

(7) Such supplemental information as the Director finds necessary to achieve the purposes of this paragraph.

(8) Waste analysis data, including that submitted in paragraph (c)(1) of this section, sufficient to allow the Director to specify as permit Principal Organic Hazardous Constituents (permit POHC's) those constituents for which destruction and removal efficiencies will be required.

(d) The Director shall approve a permit application without a trial burn if he finds that:

(1) The wastes are sufficiently similar; and

(2) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (under § 264.345 of this chapter) operating conditions that will ensure that the performance standards in § 264.343 of this chapter will be met by the incinerator.

§ 270.20 Specific Part B information requirements for land treatment facilities.

Except as otherwise provided in § 264.1, owners and operators of facilities that use land treatment to dispose of hazardous waste must provide the following additional information:

(a) A description of plans to conduct a treatment demonstration as required under § 264.272. The description must include the following information;

(1) The wastes for which the demonstration will be made and the potential hazardous constituents in the waste;

(2) The data sources to be used to make the demonstration (e.g., literature, laboratory data, field data, or operating data);

(3) Any specific laboratory or field test that will be conducted, including:

(i) The type of test (e.g., column leaching, degradation);

(ii) Materials and methods, including analytical procedures;

(iii) Expected time for completion;

(iv) Characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices.

(b) A description of a land treatment program, as required under § 264.271. This information must be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program must address the following items:

(1) The wastes to be land treated;

(2) Design measures and operating practices necessary to maximize treatment in accordance with § 264.273(a) including:

(i) Waste application method and rate;

(ii) Measures to control soil pH;

(iii) Enhancement of microbial or chemical reactions;

(iv) Control of moisture content;

(3) Provisions for unsaturated zone monitoring, including:

(i) Sampling equipment, procedures, and frequency;

(ii) Procedures for selecting sampling locations;

(iii) Analytical procedures;

(iv) Chain of custody control;

(v) Procedures for establishing background values;

(vi) Statistical methods for interpreting results;

(vii) The justification for any hazardous constituents recommended for selection as principal hazardous constituents, in accordance with the criteria for such selection in § 264.278(a);

(4) A list of hazardous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to § 264.13;

(5) The proposed dimensions of the treatment zone;

(c) A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of § 264.273. This submission must address the following items:

(1) Control of run-on;

(2) Collection and control of run-off;

(3) Minimization of run-off of hazardous constituents from the treatment zone;

(4) Management of collection and holding facilities associated with run-on and run-off control systems;

(5) Periodic inspection of the unit. This information should be included in the inspection plan submitted under § 270.14(b)(5);

(6) Control of wind dispersal of particulate matter, if applicable;

(d) If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, a description of how the demonstration required under § 264.276(a) will be conducted including:

(1) Characteristics of the food-chain crop for which the demonstration will be made.

(2) Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration;

(3) Procedures for crop growth, sample collection, sample analysis, and data evaluation;

(4) Characteristics of the comparison crop including the location and conditions under which it was or will be grown;

(e) If food-chain crops are to be grown, and cadmium is present in the land-treated waste, a description of how the requirements of § 264.276(b) will be complied with;

(f) A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining such cover during the post-closure care period, as required under § 264.280(a)(8) and § 264.280(c)(2). This information should be included in the closure plan and, where applicable, the post-closure care plan submitted under § 270.14(b)(13);

(g) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of § 264.281 will be complied with;

(h) If incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how § 264.282 will be complied with.

(i) A waste management plan for EPA Hazardous Waste Nos. FO20, FO21, FO22, FO23, FO26, and FO27 describing how a land treatment facility is or will be designed, constructed, operated, and maintained to meet the requirements of § 264.283. This submission must address the following items as specified in § 264.283:

(1) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(2) The attentuative properties of underlying and surrounding soils or other materials;

(3) The mobilizing properties of other materials co-disposed with these wastes; and

(4) The effectiveness of additional treatment, design, or monitoring techniques.

[48 FR 14228, Apr. 1, 1983; 48 FR 30114, June 30, 1983, as amended at 50 FR 2006, Jan. 14, 1985]

§ 270.21 Specific Part B information requirements for landfills.

Except as otherwise provided in § 264.1, owners and operators of facilities that dispose of hazardous waste in landfills must provide the following additional information:

(a) A list of the hazardous wastes placed or to be placed in each landfill or landfill cell;

(b) Detailed plans and an engineering report describing how the landfill is or will be designed, constructed, operated and maintained to comply with the requirements of § 264.301. This submission must address the following items as specified in § 264.301:

(1) The liner system and leachate collection and removal system (except for an existing portion of a landfill). If an exemption from the requirements for a liner and a leachate collection and removal system is sought as provided by § 264.301(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituent into the ground water or surface water at any future time;

(2) Control of run-on;

(3) Control of run-off;

(4) Management of collection and holding facilities associated with run-on and run-off control systems; and

(5) Control of wind dispersal of particulate matter, where applicable;

(c) If an exemption from subpart F of part 264 is sought, as provided by § 264.302(a), the owner or operator must submit detailed plans and an engineering report explaining the location of the saturated zone in relation to the landfill, the design of a double-liner system that incorporates a leak detection system between the liners, and a leachate collection and removal system above the liners;

(d) A description of how each landfill, including the liner and cover systems, will be inspected in order to meet the requirements of § 264.303 (a) and (b). This information should be included in the inspection plan submitted under § 270.14(b)(5).

(e) Detailed plans and an engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with § 264.310(a), and a description of how each landfill will be maintained and monitored after closure in accordance with § 264.310(b). This information should be included in the closure and post-closure plans submitted under § 270.14(b)(13).

(f) If ignitable or reactive wastes will be landfilled, an explanation of how the standards of § 264.312 will be complied with;

(g) If incompatible wastes, or incompatible wastes and materials will be landfilled, an explanation of how § 264.313 will be complied with;

(h) If bulk or non-containerized liquid waste or wastes containing free liquids is to be landfilled prior to May 8, 1985, an explanation of how the requirements of § 264.314(a) will be complied with;

(i) If containers of hazardous waste are to be landfilled, an explanation of how the requirements of § 264.315 or § 264.316, as applicable, will be complied with.

(j) A waste management plan for EPA Hazardous Waste Nos. FO20, FO21, FO22, FO23, FO26, and FO27 describing how a landfill is or will be designed, constructed, operated, and maintained to meet the requirements of § 264.317. This submission must address the following items as specified in § 264.317:

(1) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(2) The attenuative properties of underlying and surrounding soils or other materials;

(3) The mobilizing properties of other materials co-disposed with these wastes; and

(4) The effectiveness of additional treatment, design, or monitoring techniques.

[48 FR 14228, Apr. 1, 1983; 48 FR 30114, June 30, 1983, as amended at 50 FR 2006, Jan. 14, 1985; 50 FR 28752, July 15, 1985]

§ 270.22 Specific Part B information requirements for boilers and industrial furnaces burning hazardous waste.

(a) Trial burns-(1) General. Except as provided below, owners and operators that are subject to the standards to control organic emissions provided by § 266.104 of this chapter, standards to control particulate matter provided by § 266.105 of this chapter, standards to control metals emissions provided by § 266.106 of this chapter, or standards to control hydrogen chloride or chlorine gas emissions provided by § 266.107 of this chapter must conduct a trial burn to demonstrate conformance with those standards and must submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with § 270.66.

(i) A trial burn to demonstrate conformance with a particular emission standard may be waived under provisions of §§ 266.104 through 266.107 of this chapter and paragraphs (a)(2) through (a)(5) of this section; and

(ii) The owner or operator may submit data in lieu of a trial burn, as prescribed in paragraph (a)(6) of this section.

(2) Waiver of trial burn for DRE-(i) Boilers operated under special operating requirements. When seeking to be permitted under §§ 266.104(a)(4) and 266.110 of this chapter that automatically waive the DRE trial burn, the owner or operator of a boiler must submit documentation that the boiler operates under the special operating requirements provided by § 266.110 of this chapter.

(ii) Boilers and industrial furnaces burning low risk waste. When seeking to be permitted under the provisions for low risk waste provided by §§ 266.104(a)(5) and 266.109(a) of this chapter that waive the DRE trial burn, the owner or operator must submit:

(A) Documentation that the device is operated in conformance with the requirements of § 266.109(a)(1) of this chapter.

(B) Results of analyses of each waste to be burned, documenting the concentrations of nonmetal compounds listed in appendix VIII of part 261 of this chapter, except for those constituents that would reasonably not be expected to be in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion explained. The analysis must rely on analytical techniques specified in Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (incorporated by reference, see § 260.11).

(C) Documentation of hazardous waste firing rates and calculations of reasonable, worst-case emission rates of each constituent identified in paragraph (a)(2)(ii)(B) of this section using procedures provided by § 266.109(a)(2)(ii) of this chapter.

(D) Results of emissions dispersion modeling for emissions identified in paragraphs (a)(2)(ii)(C) of this section using modeling procedures prescribed by § 266.106(h) of this chapter. The Director will review the emission modeling conducted by the applicant to determine conformance with these procedures. The Director will either approve the modeling or determine that alternate or supplementary modeling is appropriate.

(E) Documentation that the maximum annual average ground level concentration of each constituent identified in paragraph (a)(2)(ii)(B) of this section quantified in conformance with paragraph (a)(2)(ii)(D) of this section does not exceed the allowable ambient level established in appendices IV or V of part 266. The acceptable ambient concentration for emitted constituents for which a specific Reference Air Concentration has not been established in appendix IV or Risk-Specific Dose has not been established in appendix V is 0.1 micrograms per cubic meter, as noted in the footnote to appendix IV.

(3) Waiver of trial burn for metals. When seeking to be permitted under the Tier I (or adjusted Tier I) metals feed rate screening limits provided by § 266.106 (b) and (e) of this chapter that control metals emissions without requiring a trial burn, the owner or operator must submit:

(i) Documentation of the feed rate of hazardous waste, other fuels, and industrial furnace feed stocks;

(ii) Documentation of the concentration of each metal controlled by § 266.106 (b) or (e) of this chapter in the hazardous waste, other fuels, and industrial furnace feedstocks, and calculations of the total feed rate of each metal;

(iii) Documentation of how the applicant will ensure that the Tier I feed rate screening limits provided by § 266.106 (b) or (e) of this chapter will not be exceeded during the averaging period provided by that paragraph;

(iv) Documentation to support the determination of the terrain-adjusted effective stack height, good engineering practice stack height, terrain type, and land use as provided by § 266.106 (b)(3) through (b)(5) of this chapter;

(v) Documentation of compliance with the provisions of § 266.106(b)(6), if applicable, for facilities with multiple stacks;

(vi) Documentation that the facility does not fail the criteria provided by § 266.106(b)(7) for eligibility to comply with the screening limits; and

(vii) Proposed sampling and metals analysis plan for the hazardous waste, other fuels, and industrial furnace feed stocks.

(4) Waiver of trial burn for particulate matter. When seeking to be permitted under the low risk waste provisions of § 266.109(b) which waives the particulate standard (and trial burn to demonstrate conformance with the particulate standard), applicants must submit documentation supporting conformance with paragraphs (a)(2)(ii) and (a)(3) of this section.

(5) Waiver of trial burn for HCl and Cl_2. When seeking to be permitted under the Tier I (or adjusted Tier I) feed rate screening limits for total chloride and chlorine provided by § 266.107 (b)(1) and (e) of this chapter that control emissions of hydrogen chloride (HCl) and chlorine gas (Cl_2) without requiring a trial burn, the owner or operator must submit:

(i) Documentation of the feed rate of hazardous waste, other fuels, and industrial furnace feed stocks;

(ii) Documentation of the levels of total chloride and chlorine in the hazardous waste, other fuels, and industrial furnace feedstocks, and calculations of the total feed rate of total chloride and chlorine;

(iii) Documentation of how the applicant will ensure that the Tier I (or adjusted Tier I) feed rate screening limits provided by § 266.107 (b)(1) or (e) of this chapter will not be exceeded during the averaging period provided by that paragraph;

(iv) Documentation to support the determination of the terrain-adjusted effective stack height, good engineering practice stack height, terrain type, and land use as provided by § 266.107(b)(3) of this chapter;

(v) Documentation of compliance with the provisions of § 266.107(b)(4), if applicable, for facilities with multiple stacks;

(vi) Documentation that the facility does not fail the criteria provided by § 266.107(b)(3) for eligibility to comply with the screening limits; and

(vii) Proposed sampling and analysis plan for total chloride and chlorine for the hazardous waste, other fuels, and industrial furnace feestocks.

(6) Data in lieu of trail burn. The owner or operator may seek an exemption from the trial burn requirements to demonstrate conformance with §§ 266.104 through 266.107 of this chapter and § 270.66 by providing the information required by § 270.66 from previous compliance testing of the device in conformance with § 266.103 of this chapter, or from compliance testing or trial or operational burns of similar boilers or industrial furnaces burning similar hazardous wastes under similar conditions. If data from a similar device is used to support a trial burn waiver, the design and operating information required by § 270.66 must be provided for both the similar device and the device to which the data is to be applied, and a comparison of the design and operating information must be provided. The Director shall approve a permit application without a trial burn if he finds that the hazardous wastes are sufficiently similar, the devices are sufficiently similar, the operating conditions are sufficiently similar, and the data from other compliance tests, trial burns, or operational burns are adequate to specify (under § 266.102 of this chapter) operating conditions that will ensure conformance with § 266.102(c) of this chapter. In addition, the following information shall be submitted:

(i) For a waiver from any trial burn:

(A) A description and analysis of the hazardous waste to be burned compared with the hazardous waste for which data from compliance testing, or operational or trial burns are provided to support the contention that a trial burn is not needed;

(B) The design and operating conditions of the boiler or industrial furnace to be used, compared with that for which comparative burn data are available; and

(C) Such supplemental information as the Director finds necessary to achieve the purposes of this paragraph.

(ii) For a waiver of the DRE trial burn, the basis for selection of POHCs used in the other trial or operational burns which demonstrate compliance with the DRE performance standard in § 266.104(a) of this chapter. This analysis should specify the constituents in appendix VIII, part 261 of this chapter, that the applicant has identified in the hazardous waste for which a permit is sought, and any differences from the POHCs in the hazardous waste for which burn data are provided.

(b) Alternative HC limit for industrial furnaces with organic matter in raw materials. Owners and operators of industrial furnaces requesting an alternative HC limit under § 266.104(f) of this chapter shall submit the following information at a minimum:

(1) Documentation that the furnace is designed and operated to minimize HC emissions from fuels and raw materials;

(2) Documentation of the proposed baseline flue gas HC (and CO) concentration, including data on HC (and CO) levels during tests when the facility produced normal products under normal operating conditions from normal raw materials while burning normal fuels and when not burning hazardous waste;

(3) Test burn protocol to confirm the baseline HC (and CO) level including information on the type and flow rate of all feedstreams, point of introduction of all feedstreams, total organic carbon content (or other appropriate measure of organic content) of all nonfuel feedstreams, and operating conditions that affect combustion of fuel(s) and destruction of hydrocarbon emissions from nonfuel sources;

(4) Trial burn plan to:

(i) Demonstrate that flue gas HC (and CO) concentrations when burning hazardous waste do not exceed the baseline HC (and CO) level; and

(ii) Identify the types and concentrations of organic compounds listed in appendix VIII, part 261 of this chapter, that are emitted when burning hazardous waste in conformance with procedures prescribed by the Director;

(5) Implementation plan to monitor over time changes in the operation of the facility that could reduce the baseline HC level and procedures to periodically confirm the baseline HC level; and

(6) Such other information as the Director finds necessary to achieve the purposes of this paragraph.

(c) Alternative metals implementation approach. When seeking to be permitted under an alternative metals implementation approach under § 266.106(f) of this chapter, the owner or operator must submit documentation specifying how the approach ensures compliance with the metals emissions standards of § 266.106(c) or (d) and how the approach can be effectively implemented and monitored. Further, the owner or operator shall provide such other information that the Director finds necessary to achieve the purposes of this paragraph.

(d) Automatic waste feed cutoff system. Owners and operators shall submit information describing the automatic waste feed cutoff system, including any pre-alarm systems that may be used.

(e) Direct transfer. Owners and operators that use direct transfer operations to feed hazardous waste from transport vehicles (containers, as defined in § 266.111 of this chapter) directly to the boiler or industrial furnace shall submit information supporting conformance with the standards for direct transfer provided by § 266.111 of this chapter.

(f) Residues. Owners and operators that claim that their residues are excluded from regulation under the provisions of § 266.112 of this chapter must submit information adequate to demonstrate conformance with those provisions.

(Approved by the Office of Management and Budget under control number 2050-0073)

[56 FR 7235, Feb. 21, 1991; 56 FR 32691, July 17, 1991]

§ 270.23 Specific Part B information requirements for miscellaneous units.

Except as otherwise provided in § 264.600, owners and operators of facilities that treat, store, or dispose of hazardous waste in miscellaneous units must provide the following additional information:

(a) A detailed description of the unit being used or proposed for use, including the following:

(1) Physical characteristics, materials of construction, and dimensions of the unit;

(2) Detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of §§ 264.601 and 264.602; and

(3) For disposal units, a detailed description of the plans to comply with the post-closure requirements of § 264.603.

(b) Detailed hydrologic, geologic, and meteorologic assessments and land-use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of § 264.601. If the applicant can demonstrate that he does not violate the environmental performance standards of § 264.601 and the Director agrees with such demonstration, preliminary hydrologic, geologic, and meteorologic assessments will suffice.

(c) Information on the potential pathways of exposure of humans or environmental receptors to hazardous waste or hazardous constituents and on the potential magnitude and nature of such exposures.

(d) For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data.

(e) Any additional information determined by the Director to be necessary for evaluation of compliance of the unit with the environmental performance standards of § 264.601.

(Information collection requirements in this section have been approved by the Office of Management and Budget under control number 2050-0074)

§ 270.24 Specific Part B information requirements for process vents.

Except as otherwise provided in § 264.1, owners and operators of facilities that have process vents to which subpart AA of part 264 applies must provide the following additional information:

(a) For facilities that cannot install a closed-vent system and control device to comply with the provisions of 40 CFR 264 subpart AA on the effective date that the facility becomes subject to the provisions of 40 CFR 264 or 265 subpart AA, an implementation schedule as specified in § 264.1033(a)(2).

(b) Documentation of compliance with the process vent standards in § 264.1032, including:

(1) Information and data identifying all affected process vents, annual throughput and operating hours of each affected unit, estimated emission rates for each affected vent and for the overall facility (i.e., the total emissions for all affected vents at the facility), and the approximate location within the facility of each affected unit (e.g., identify the hazardous waste management units on a facility plot plan).

(2) Information and data supporting estimates of vent emissions and emission reduction achieved by add-on control devices based on engineering calculations or source tests. For the purpose of determining compliance, estimates of vent emissions and emission reductions must be made using operating parameter values (e.g., temperatures, flow rates, or concentrations) that represent the conditions that exist when the waste management unit is operating at the highest load or capacity level reasonably expected to occur.

(3) Information and data used to determine whether or not a process vent is subject to the requirements of § 264.1032.

(c) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system to comply with the requirements of § 264.1032, and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in § 264.1035(b)(3).

(d) Documentation of compliance with § 264.1033, including:

(1) A list of all information references and sources used in preparing the documentation.

(2) Records, including the dates, of each compliance test required by § 264.1033(k).

(3) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of ``APTI Course 415: Control of Gaseous Emissions'' (incorporated by reference as specified in § 260.11) or other engineering texts acceptable to the Regional Administrator that present basic control device design information. The design analysis shall address the vent stream characteristics and control device operation parameters as specified in § 264.1035(b)(4)(iii).

(4) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous waste management unit is or would be operating at the highest load or capacity level reasonably expected to occur.

(5) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater unless the total organic emission limits of § 264.1032(a) for affected process vents at the facility can be attained by a control device involving vapor recovery at an efficiency less than 95 weight percent.

(Approved by the Office of Management and Budget under control number 2060-0195)

[55 FR 25518, June 21, 1990, as amended at 56 FR 19290, Apr. 26, 1991]

§ 270.25 Specific part B information requirements for equipment.

Except as otherwise provided in § 264.1, owners and operators of facilities that have equipment to which subpart BB of part 264 applies must provide the following additional information:

(a) For each piece of equipment to which subpart BB of part 264 applies:

(1) Equipment identification number and hazardous waste management unit identification.

(2) Approximate locations within the facility (e.g., identify the hazardous waste management unit on a facility plot plan).

(3) Type of equipment (e.g., a pump or pipeline valve).

(4) Percent by weight total organics in the hazardous waste stream at the equipment.

(5) Hazardous waste state at the equipment (e.g., gas/vapor or liquid).

(6) Method of compliance with the standard (e.g., ``monthly leak detection and repair'' or ``equipped with dual mechanical seals'').

(b) For facilities that cannot install a closed-vent system and control device to comply with the provisions of 40 CFR 264 subpart BB on the effective date that the facility becomes subject to the provisions of 40 CFR 264 or 265 subpart BB, an implementation schedule as specified in § 264.1033(a)(2).

(c) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in § 264.1035(b)(3).

(d) Documentation that demonstrates compliance with the equipment standards in §§ 264.1052 to 264.1059. This documentation shall contain the records required under § 264.1064. The Regional Administrator may request further documentation before deciding if compliance has been demonstrated.

(e) Documentation to demonstrate compliance with § 264.1060 shall include the following information:

(1) A list of all information references and sources used in preparing the documentation.

(2) Records, including the dates, of each compliance test required by § 264.1033(j).

(3) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of ``ATPI Course 415: Control of Gaseous Emissions'' (incorporated by reference as specified in § 260.11) or other engineering texts acceptable to the Regional Administrator that present basic control device design information. The design analysis shall address the vent stream characteristics and control device operation parameters as specified in § 264.1035(b)(4)(iii).

(4) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous waste management unit is operating at the highest load or capacity level reasonably expected to occur.

(5) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater.

(Approved by the Office of Management and Budget under control number 2060-0915)

[55 FR 25518, June 21, 1990, as amended at 56 FR 19290, Apr. 26, 1991]

§ 270.26 Special part B information requirements for drip pads.

Except as otherwise provided by § 264.1 of this chapter, owners and operators of hazardous waste treatment, storage, or disposal facilities that collect, store, or treat hazardous waste on drip pads must provide the following additional information:

(a) A list of hazardous wastes placed or to be placed on each drip pad.

(b) If an exemption is sought to subpart F of part 264 of this chapter, as provided by § 264.90 of this chapter, detailed plans and an engineering report describing how the requirements of § 264.90(b)(2) of this chapter will be met.

(c) Detailed plans and an engineering report describing how the drip pad is or will be designed, constructed, operated and maintained to meet the requirements of § 264.573 of this chapter, including the as-built drawings and specifications. This submission must address the following items as specified in § 264.571 of this chapter:

(1) The design characteristics of the drip pad;

(2) The liner system;

(3) The leakage detection system, including the leak detection system and how it is designed to detect the failure of the drip pad or the presence of any releases of hazardous waste or accumulated liquid at the earliest practicable time;

(4) Practices designed to maintain drip pads;

(5) The associated collection system;

(6) Control of run-on to the drip pad;

(7) Control of run-off from the drip pad;

(8) The interval at which drippage and other materials will be removed from the associated collection system and a statement demonstrating that the interval will be sufficient to prevent overflow onto the drip pad;

(9) Procedures for cleaning the drip pad at least once every seven days to ensure the removal of any accumulated residues of waste or other materials, including but not limited to rinsing, washing with detergents or other appropriate solvents, or steam cleaning and provisions for documenting the date, time, and cleaning procedure used each time the pad is cleaned.

(10) Operating practices and procedures that will be followed to ensure that tracking of hazardous waste or waste constituents off the drip pad due to activities by personnel or equipment is minimized;

(11) Procedures for ensuring that, after removal from the treatment vessel, treated wood from pressure and non-pressure processes is held on the drip pad until drippage has ceased, including recordkeeping practices;

(12) Provisions for ensuring that collection and holding units associated with the run-on and run-off control systems are emptied or otherwise managed as soon as possible after storms to maintain design capacity of the system;

(13) If treatment is carried out on the drip pad, details of the process equipment used, and the nature and quality of the residuals.

(14) A description of how each drip pad, including appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of § 264.573 of this chapter. This information should be included in the inspection plan submitted under § 270.14(b)(5) of this part.

(15) A certification signed by an independent qualified, registered professional engineer, stating that the drip pad design meets the requirements of paragraphs (a) through (f) of § 264.573 of this chapter.

(16) A description of how hazardous waste residues and contaminated materials will be removed from the drip pad at closure, as required under § 264.575(a) of this chapter. For any waste not to be removed from the drip pad upon closure, the owner or operator must submit detailed plans and an engineering report describing how § 264.310 (a) and (b) of this chapter will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under § 270.14(b)(13).

[55 FR 50489, Dec. 6, 1990, Redesignated and amended at 56 FR 30198, July 1, 1991]

§§ 270.27-270.28 [Reserved]

§ 270.29 Permit denial.

The Director may, pursuant to the procedures in part 124, deny the permit application either in its entirety or as to the active life of a hazardous waste management facility or unit only.

[54 FR 9607, Mar. 7, 1989]

Subpart C -- Permit Conditions

§ 270.30 Conditions applicable to all permits.

The following conditions apply to all RCRA permits, and shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations (or the corresponding approved State regulations) must be given in the permit.

(a) Duty to comply. The permittee must comply with all conditions of this permit, except that the permittee need not comply with the conditions of this permit to the extent and for the duration such noncompliance is authorized in an emergency permit. (See § 270.61). Any permit noncompliance, except under the terms of an emergency permit, constitutes a violation of the appropriate Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

(b) Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

(c) Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(d) In the event of noncompliance with the permit, the permittee shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment.

(e) Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the opration of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

(f) Permit actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

(g) Property rights. The permit does not convey any property rights of any sort, or any exclusive privilege.

(h) Duty to provide information. The permittee shall furnish to the Director, within a reasonable time, any relevant information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

(i) Inspection and entry. The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law to:

(1) Enter at reasonable times upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

(2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(3) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(4) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by RCRA, any substances or parameters at any location.

(j) Monitoring and records. (1) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(2) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, the certification required by § 264.73(b)(9) of this chapter, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report, certification, or application. This period may be extended by request of the Director at any time. The permittee shall maintain records from all ground-water monitoring wells and associated ground-water surface elevations, for the active life of the facility, and for disposal facilities for the post-closure care period as well.

(3) Records for monitoring information shall include:

(i) The date, exact place, and time of sampling or measurements;

(ii) The individual(s) who performed the sampling or measurements;

(iii) The date(s) analyses were performed;

(iv) The individual(s) who performed the analyses;

(v) The analytical techniques or methods used; and

(vi) The results of such analyses.

(k) Signatory requirements. All applications, reports, or information submitted to the Director shall be signed and certified (See § 270.11.)

(l) Reporting requirements. (1) Planned changes. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility.

(2) Anticipated noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. For a new facility, the permittee may not treat, store, or dispose of hazardous waste; and for a facility being modified, the permittee may not treat, store, or dispose of hazardous waste in the modified portion of the facility except as provided in § 270.42, until:

(i) The permittee has submitted to the Director by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and

(ii)(A) The Director has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or

(B) Within 15 days of the date of submission of the letter in paragraph (l)(2)(i) of this section, the permittee has not received notice from the Director of his or her intent to inspect, prior inspection is waived and the permittee may commence treatment, storage, or disposal of hazardous waste.

(3) Transfers. This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under RCRA. (See § 270.40)

(4) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.

(5) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

(6) Twenty-four hour reporting. (i) The permittee shall report any noncompliance which may endanger health or the environment orally within 24 hours from the time the permittee becomes aware of the circumstances, including:

(A) Information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies.

(B) Any information of a release or discharge of hazardous waste or of a fire or explosion from the HWM facility, which could threaten the environment or human health outside the facility.

(ii) The description of the occurrence and its cause shall include:

(A) Name, address, and telephone number of the owner or operator;

(B) Name, address, and telephone number of the facility;

(C) Date, time, and type of incident;

(D) Name and quantity of material(s) involved;

(E) The extent of injuries, if any;

(F) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and

(G) Estimated quantity and disposition of recovered material that resulted from the incident.

(iii) A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate,

and prevent reoccurrence of the noncompliance. The Director may waive the five day written notice requirement in favor of a written report within fifteen days.

(7) Manifest discrepancy report: If a significant discrepancy in a manifest is discovered, the permittee must attempt to reconcile the discrepancy. If not resolved within fifteen days, the permittee must submit a letter report, including a copy of the manifest, to the Director. (See 40 CFR 264.72.)

(8) Unmanifested waste report: This report must be submitted to the Director within 15 days of receipt of unmanifested waste. (See 40 CFR 264.76)

(9) Biennial report: A biennial report must be submitted covering facility activities during odd numbered calendar years. (See 40 CFR 264.75.)

(10) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (1)(4), (5), and (6) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (1)(6) of this section.

(11) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

(Clean Water Act (33 U.S.C. 1251 et seq.), Safe Drinking Water Act (42 U.S.C. 300f et seq.), Clean Air Act (42 U.S.C. 7401 et seq.), Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.))

[48 FR 14228, Apr. 1, 1983, as amended at 48 FR 30114, June 30, 1983; 48 FR 39622, Sept. 1, 1983; 50 FR 28752, July 15, 1985; 53 FR 37935, Sept. 28, 1988]

§ 270.31 Requirements for recording and reporting of monitoring results.

All permits shall specify:

(a) Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate);

(b) Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring;

(c) Applicable reporting requirements based upon the impact of the regulated activity and as specified in parts 264, 266 and 267. Reporting shall be no less frequent than specified in the above regulations.

§ 270.32 Establishing permit conditions.

(a) In addition to conditions required in all permits (§ 270.30), the Director shall establish conditions, as required on a case-by-case basis, in permits under §§ 270.50 (duration of permits), 270.33(a) (schedules of compliance), 270.31 (monitoring), and for EPA issued permits only, 270.33(b) (alternate schedules of compliance) and 270.3 (considerations under Federal law).

(b)(1) Each RCRA permit shall include permit conditions necessary to achieve compliance with the Act and regulations, including each of the applicable requirements specified in parts 264 and 266 through 268 of this chapter. In satisfying this provision, the Administrator may incorporate applicable requirements of parts 264 and 266 through 268 of this chapter directly into the permit or establish other permit conditions that are based on these parts.

(2) Each permit issued under section 3005 of this act shall contain terms and conditions as the Administrator or State Director determines necessary to protect human health and the environment.

(c) For a State issued permit, an applicable requirement is a State statutory or regulatory requirement which takes effect prior to final administrative disposition of a permit. For a permit issued by EPA, an applicable requirement is a statutory or regulatory requirement (including any interim final regulation) which takes effect prior to the issuance of the permit (except as provided in § 124.86(c) for RCRA permits being processed under subpart E or F of part 124). Section 124.14 (reopening of comment period) provides a means for reopening EPA permit proceedings at the discretion of the Director where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. For State and EPA administered programs, an applicable requirement is also any requirement which takes effect prior to the modification or revocation and reissuance of a permit, to the extent allowed in § 270.41.

(d) New or reissued permits, and to the extent allowed under § 270.41, modified or revoked and reissued permits, shall incorporate each of the applicable requirements referenced in this section and in 40 CFR 270.31.

(e) Incorporation. All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements must be given in the permit.

[48 FR 14228, Apr. 1, 1983, as amended at 50 FR 28752, July 15, 1985; 51 FR 40653, Nov. 7, 1986]

§ 270.33 Schedules of compliance.

(a) The permit may, when appropriate, specify a schedule of compliance leading to compliance with the Act and regulations.

(1) Time for compliance. Any schedules of compliance under this section shall require compliance as soon as possible.

(2) Interim dates. Except as provided in paragraph (b)(1)(ii) of this section, if a permit establishes a schedule of compliance which exceeds 1 year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

(i) The time between interim dates shall not exceed 1 year.

(ii) If the time necessary for completion of any interim requirement is more than 1 year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

(3) Reporting. The permit shall be written to require that no later than 14 days following each interim date and the final date of compliance, the permittee shall notify the Director in writing, of its compliance or noncompliance with the interim or final requirements.

(b) Alternative schedules of compliance. An RCRA permit applicant or permittee may cease conducting regulated activities (by receiving a terminal volume of hazardous waste and, for treatment and storage HWM facilities, closing pursuant to applicable requirements; and, for disposal HWM facilities, closing and conducting post-closure care pursuant to applicable requirements) rather than continue to operate and meet permit requirements as follows:

(1) If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:

(i) The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or

(ii) The permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit.

(2) If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit shall contain a schedule leading to termination which will ensure timely compliance with applicable requirements.

(3) If the permittee is undecided whether to cease conducting regulated activities, the Director may issue or modify a permit to contain two schedules as follows:

(i) Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities;

(ii) One schedule shall lead to timely compliance with applicable requirements;

(iii) The second schedule shall lead to cessation of regulated activities by a date which will ensure timely compliance with applicable requirements;

(iv) Each permit containing two schedules shall include a requirement that after the permittee has made a final decision under paragraph (b)(3)(i) of this section it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities.

(4) The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the Director, such as resolution of the board of directors of a corporation.

[48 FR 14228, Apr. 1, 1983, as amended at 48 FR 30114, June 30, 1983]

Subpart D -- Changes to Permit

§ 270.40 Transfer of permits.

(a) A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under § 270.40(b) or § 270.41(b)(2)) to identify the new permittee and incorporate such other requirements as may be necessary under the appropriate Act.

(b) Changes in the ownership or operational control of a facility may be made as a Class 1 modification with prior written approval of the Director in accordance with § 270.42. The new owner or operator must submit a revised permit application no later than 90 days prior to the scheduled change. A written agreement containing a specific date for transfer of permit responsibility between the current and new permittees must also be submitted to the Director. When a transfer of ownership or operational control occurs, the old owner or operator shall comply with the requirements of 40 CFR part 264, subpart H (Financial Requirements) until the new owner or operator has demonstrated that he or she is complying with the requirements of that subpart. The new owner or operator must demonstrate compliance with subpart H requirements within six months of the date of the change of ownership or operational control of the facility. Upon demonstration to the Director by the new owner or operator of compliance with subpart H, the Director shall notify the old owner or operator that he or she no longer needs to comply with subpart H as of the date of demonstration.

[53 FR 37935, Sept. 28, 1988]

§ 270.41 Modification or revocation and reissuance of permits.

When the Director receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (see § 270.30), receives a request for revocation and reissuance under § 124.5 or conducts a review of the permit file), he or she may determine whether one or more of the causes listed in paragraphs (a) and (b) of this section for modification, or revocation and reissuance or both exist. If cause exists, the Director may modify or revoke and reissue the permit accordingly, subject to the limitations of paragraph (c) of this section, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. (See 40 CFR 124.5(c)(2).) If cause does not exist under this section, the Director shall not modify or revoke and reissue the permit, except on request of the permittee. If a permit modification is requested by the permittee, the Director shall approve or deny the request according to the procedures of 40 CFR 270.42. Otherwise, a draft permit must be prepared and other procedures in part 124 (or procedures of an authorized State program) followed.

(a) Causes for modification. The following are causes for modification, but not revocation and reissuance, of permits; the following may be causes for revocation and reissuance, as well as modification, when the permittee requests or agrees.

(1) Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

(2) Information. The Director has received information. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance.

(3) New statutory requirements or regulations. The standards or regulations on which the permit was based have been changed by statute, through promulgation of new or amended standards or regulations, or by judicial decision after the permit was issued.

(4) Compliance schedules. The Director determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy.

(5) Notwithstanding any other provision in this section, when a permit for a land disposal facility is reviewed by the Director under § 270.50(d), the Director shall modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in parts 124, 260 through 266, and 270.

(b) Causes for modification or revocation and reissuance. The following are causes to modify or, alternatively, revoke and reissue a permit:

(1) Cause exists for termination under § 270.43, and the Director determines that modification or revocation and reissuance is appropriate.

(2) The Director has received notification (as required in the permit, see § 270.30(l)(3)) of a proposed transfer of the permit.

(c) Facility siting. Suitability of the facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environmental exists which was unknown at the time of permit issuance.

[48 FR 14228, Apr. 1, 1983, as amended at 48 FR 30114, June 30, 1983; 50 FR 28752, July 15, 1985; 52 FR 45799, Dec. 1, 1987; 53 FR 37936, Sept. 28, 1988]

§ 270.42 Permit modification at the request of the permittee.

(a) Class 1 modifications. (1) Except as provided in paragraph (a)(2) of this section, the permittee may put into effect Class 1 modifications listed in appendix I of this section under the following conditions:

(i) The permittee must notify the Director concerning the modification by certified mail or other means that establish proof of delivery within 7 calendar days after the change is put into effect. This notice must specify the changes being made to permit conditions or supporting documents referenced by the permit and must explain why they are necessary. Along with the notice, the permittee must provide the applicable information required by §§ 270.13 through 270.21, 270.62, and 270.63.

(ii) The permittee must send a notice of the modification to all persons on the facility mailing list, maintained by the Director in accordance with 40 CFR 124.10(c)(viii), and the appropriate units of State and local government, as specified in 40 CFR 124.10(c)(ix). This notification must be made within 90 calendar days after the change is put into effect. For the Class I modifications that require prior Director approval, the notification must be made within 90 calendar days after the Director approves the request.

(iii) Any person may request the Director to review, and the Director may for cause reject, any Class 1 modification. The Director must inform the permittee by certified mail that a Class 1 modification has been rejected, explaining the reasons for the rejection. If a Class 1 modification has been rejected, the permittee must comply with the original permit conditions.

(2) Class 1 permit modifications identified in appendix I by an asterisk may be made only with the prior written approval of the Director.

(3) For a Class 1 permit modification, the permittee may elect to follow the procedures in § 270.42(b) for Class 2 modifications instead of the Class 1 procedures. The permittee must inform the Director of this decision in the notice required in § 270.42(b)(1).

(b) Class 2 modifications. (1) For Class 2 modifications, listed in appendix I of this section, the permittee must submit a modification request to the Director that:

(i) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

(ii) Identifies that the modification is a Class 2 modification;

(iii) Explains why the modification is needed; and

(iv) Provides the applicable information required by §§ 270.13 through 270.21, 270.62, and 270.63.

(2) The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the Director and to the appropriate units of State and local government as specified in 40 CFR 124.10(c)(ix) and must publish this notice in a major local newspaper of general circulation. This notice must be mailed and published within 7 days before or after the date of submission of the modification

request, and the permittee must provide to the Director evidence of the mailing and publication. The notice must include:

(i) Announcement of a 60-day comment period, in accordance with § 270.42(b)(5), and the name and address of an Agency contact to whom comments must be sent;

(ii) Announcement of the date, time, and place for a public meeting held in accordance with § 270.42(b)(4);

(iii) Name and telephone number of the permittee's contact person;

(iv) Name and telephone number of an Agency contact person;

(v) Location where copies of the modification request and any supporting documents can be viewed and copied; and

(vi) The following statement: ``The permittee's compliance history during the life of the permit being modified is available from the Agency contact person.''

(3) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

(4) The permittee must hold a public meeting no earlier than 15 days after the publication of the notice required in paragraph (b)(2) of this section and no later than 15 days before the close of the 60-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.

(5) The public shall be provided 60 days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the Agency contact identified in the public notice.

(6)(i) No later than 90 days after receipt of the notification request, the Director must:

(A) Approve the modification request, with or without changes, and modify the permit accordingly;

(B) Deny the request;

(C) Determine that the modification request must follow the procedures in § 270.42(c) for Class 3 modifications for the following reasons:

(1) There is significant public concern about the proposed modification; or

(2) The complex nature of the change requires the more extensive procedures of Class 3.

(D) Approve the request, with or without changes, as a temporary authorization having a term of up to 180 days, or

(E) Notify the permittee that he or she will decide on the request within the next 30 days.

(ii) If the Director notifies the permittee of a 30-day extension for a decision, the Director must, no later than 120 days after receipt of the modification request:

(A) Approve the modification request, with or without changes, and modify the permit accordingly;

(B) Deny the request; or

(C) Determine that the modification request must follow the procedures in § 270.42(c) for Class 3 modifications for the following reasons:

(1) There is significant public concern about the proposed modification; or

(2) The complex nature of the change requires the more extensive procedures of Class 3.

(D) Approve the request, with or without changes, as a temporary authorization having a term of up to 180 days.

(iii) If the Director fails to make one of the decisions specified in paragraph (b)(6)(ii) of this section by the 120th day after receipt of the modification request, the permittee is automatically authorized

to conduct the activities described in the modification request for up to 180 days, without formal Agency action. The authorized activities must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of 40 CFR part 265. If the Director approves, with or without changes, or denies the modification request during the term of the temporary or automatic authorization provided for in paragraphs (b)(6) (i), (ii), or (iii) of this section, such action cancels the temporary or automatic authorization.

(iv)(A) In the case of an automatic authorization under paragraph (b)(6)(iii) of this section, or a temporary authorization under paragraph (b)(6) (i)(D) or (ii)(D) of this section, if the Director has not made a final approval or denial of the modification request by the date 50 days prior to the end of the temporary or automatic authorization, the permittee must within seven days of that time send a notification to persons on the facility mailing list, and make a reasonable effort to notify other persons who submitted written comments on the modification request, that:

(1) The permittee has been authorized temporarily to conduct the activities described in the permit modification request, and

(2) Unless the Director acts to give final approval or denial of the request by the end of the authorization period, the permittee will receive authorization to conduct such activities for the life of the permit.

(B) If the owner/operator fails to notify the public by the date specified in paragraph (b)(6)(iv)(A) of this section, the effective date of the permanent authorization will be deferred until 50 days after the owner/operator notifies the public.

(v) Except as provided in paragraph (b)(6)(vii) of this section, if the Director does not finally approve or deny a modification request before the end of the automatic or temporary authorization period or reclassify the modification as a Class 3, the permittee is authorized to conduct the activities described in the permit modification request for the life of the permit unless modified later under § 270.41 or § 270.42. The activities authorized under this paragraph must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of 40 CFR part 265.

(vi) In making a decision to approve or deny a modification request, including a decision to issue a temporary authorization or to reclassify a modification as a Class 3, the Director must consider all written comments submitted to the Agency during the public comment period and must respond in writing to all significant comments in his or her decision.

(vii) With the written consent of the permittee, the Director may extend indefinitely or for a specified period the time periods for final approval or denial of a modification request or for reclassifying a modification as a Class 3.

(7) The Director may deny or change the terms of a Class 2 permit modification request under paragraphs (b)(6) (i) through (iii) of this section for the following reasons:

(i) The modification request is incomplete;

(ii) The requested modification does not comply with the appropriate requirements of 40 CFR part 264 or other applicable requirements; or

(iii) The conditions of the modification fail to protect human health and the environment.

(8) The permittee may perform any construction associated with a Class 2 permit modification request beginning 60 days after the submission of the request unless the Director establishes a later date for commencing construction and informs the permittee in writing before day 60.

(c) Class 3 modifications. (1) For Class 3 modifications listed in appendix I of this section, the permittee must submit a modification request to the Director that:

(i) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

(ii) Identifies that the modification is a Class 3 modification;

(iii) Explains why the modification is needed; and

(iv) Provides the applicable information required by 40 CFR 270.13 through 270.22, 270.62, 270.63, and 270.66.

(2) The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the Director and to the appropriate units of State and local government as specified in 40 CFR 124.10(c)(ix) and must publish this notice in a major local newspaper of general circulation. This notice must be mailed and published within seven days before or after the date of submission of the modification request, and the permittee must provide to the Director evidence of the mailing and publication. The notice must include:

(i) Announcement of a 60-day comment period, and a name and address of an Agency contact to whom comments must be sent;

(ii) Announcement of the date, time, and place for a public meeting on the modification request, in accordance with § 270.42(c)(4);

(iii) Name and telephone number of the permittee's contact person;

(iv) Name and telephone number of an Agency contact person;

(v) Location where copies of the modification request and any supporting documents can be viewed and copied; and

(vi) The following statement: ``The permittee's compliance history during the life of the permit being modified is available from the Agency contact person.''

(3) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

(4) The permittee must hold a public meeting no earlier than 15 days after the publication of the notice required in paragraph (c)(2) of this section and no later than 15 days before the close of the 60-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.

(5) The public shall be provided at least 60 days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the Agency contact identified in the notice.

(6) After the conclusion of the 60-day comment period, the Director must grant or deny the permit modification request according to the permit modification procedures of 40 CFR part 124. In addition, the Director must consider and respond to all significant written comments received during the 60-day comment period.

(d) Other modifications. (1) In the case of modifications not explicitly listed in Appendix I of this section, the permittee may submit a Class 3 modification request to the Agency, or he or she may request a determination by the Director that the modification should be reviewed and approved as a Class 1 or Class 2 modification. If the permittee requests that the modification be classified as a Class 1 or 2 modification, he or she must provide the Agency with the necessary information to support the requested classification.

(2) The Director shall make the determination described in paragraph (d)(1) of this section as promptly as practicable. In determining the appropriate class for a specific modification, the Director shall consider the similarity of the modification to other modifications codified in Appendix I and the following criteria:

(i) Class 1 modifications apply to minor changes that keep the permit current with routine changes to the facility or its operation. These changes do no substantially alter the permit conditions or reduce the capacity of the facility to protect human health or the environment. In the case of Class 1 modifications, the Director may require prior approval.

(ii) Class 2 modifications apply to changes that are necessary to enable a permittee to respond, in a timely manner, to,

(A) Common variations in the types and quantities of the wastes managed under the facility permit,

(B) Technological advancements, and

(C) Changes necessary to comply with new regulations, where these changes can be implemented without substantially changing design specifications or management practices in the permit.

(iii) Class 3 modifications substantially alter the facility or its operation.

(e) Temporary authorizations. (1) Upon request of the permittee, the Director may, without prior public notice and comment, grant the permittee a temporary authorization in accordance with this subsection. Temporary authorizations must have a term of not more than 180 days.

(2)(i) The permittee may request a temporary authorization for:

(A) Any Class 2 modification meeting the criteria in paragraph (e)(3)(ii) of this section, and

(B) Any Class 3 modification that meets the criteria in paragraph (3)(ii) (A) or (B) of this section; or that meets the criteria in paragraphs (3)(ii) (C) through (E) of this section and provides improved management or treatment of a hazardous waste already listed in the facility permit.

(ii) The temporary authorization request must include:

(A) A description of the activities to be conducted under the temporary authorization;

(B) An explanation of why the temporary authorization is necessary; and

(C) Sufficient information to ensure compliance with 40 CFR part 264 standards.

(iii) The permittee must send a notice about the temporary authorization request to all persons on the facility mailing list maintained by the Director and to appropriate units of State and local governments as specified in 40 CFR 124.10(c)(ix). This notification must be made within seven days of submission of the authorization request.

(3) The Director shall approve or deny the temporary authorization as quickly as practical. To issue a temporary authorization, the Director must find:

(i) The authorized activities are in compliance with the standards of 40 CFR part 264.

(ii) The temporary authorization is necessary to achieve one of the following objectives before action is likely to be taken on a modification request:

(A) To facilitate timely implementation of closure or corrective action activities;

(B) To allow treatment or storage in tanks or containers of restricted wastes in accordance with 40 CFR part 268;

(C) To prevent disruption of ongoing waste management activities;

(D) To enable the permittee to respond to sudden changes in the types or quantities of the wastes managed under the facility permit; or

(E) To facilitate other changes to protect human health and the environment.

(4) A temporary authorization may be reissued for one additional term of up to 180 days provided that the permittee has requested a Class 2 or 3 permit modification for the activity covered in the temporary authorization, and:

(i) The reissued temporary authorization constitutes the Director's decision on a Class 2 permit modification in accordance with paragraph (b)(6)(i)(D) or (ii)(D) of this section, or

(ii) The Director determines that the reissued temporary authorization involving a Class 3 permit modification request is warranted to allow the authorized activities to continue while the modification procedures of paragraph (c) of this section are conducted.

(f) Public notice and appeals of permit modification decisions. (1) The Director shall notify persons on the facility mailing list and appropriate units of State and local government within 10 days of any decision under this section to grant or deny a Class 2 or 3 permit modification request. The Director shall also notify such persons within 10 days after an automatic authorization for a Class 2 modification goes into effect under § 270.42(b)(6) (iii) or (v).

(2) The Director's decision to grant or deny a Class 2 or 3 permit modification request under this section may be appealed under the permit appeal procedures of 40 CFR 124.19.

(3) An automatic authorization that goes into effect under § 270.42(b)(6) (iii) or (v) may be appealed under the permit appeal procedures of 40 CFR 124.19; however, the permittee may continue to conduct the

activities pursuant to the automatic authorization until the appeal has been granted pursuant to § 124.19(c), notwithstanding the provisions of § 124.15(b).

(g) Newly regulated wastes and units. (1) The permittee is authorized to continue to manage wates listed or identified as hazardous under part 261 of this chapter, or to continue to manage hazardous waste in units newly regulated as hazardous waste management units, if:

(i) The unit was in existence as a hazardous waste facility with respect to the newly listed or characterized waste or newly regulated waste management unit on the effetive date of the final rule listing or identifying the waste, or regulating the unit;

(ii) The permittee submits a Class 1 modification request on or before the date on which the waste or unit becomes subject to the new requirements;

(iii) The permittee is in compliance with the applicable standards of 40 CFR parts 265 and 266 of this chapter;

(iv) The permittee also submits a complete Class 2 or 3 modification request within 180 days of the effective date of the rule listing or identifying the waste, or subjecting the unit to RCRA Subtitle C management standards;

(v) In the case of land disposal units, the permittee certifies that each such unit is in compliance with all applicable requirements of part 265 of this chapter for groundwater monitoring and financial responsibility on the date 12 months after the effective date of the rule identifying or listing the waste as hazardous, or regulating the unit as a hazardous waste management unit. If the owner or operator fails to certify compliance with all these requirements, he or she will lose authority to operate under this section.

(2) New wastes or units added to a facility's permit under this subsection do not constitute expansions for the purpose of the 25 percent capacity expansion limit for Class 2 modifications.

(h) Permit modification list. The Director must maintain a list of all approved permit modifications and must publish a notice once a year in a State-wide newspaper that an updated list is available for review.

Appendix I to § 270.42 -- Classification of Permit Modification

Modifications	Class
A. General Permit Provisions	
1. Administrative and informational changes	1
2. Correction of typographical errors	1
3. Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls)	1
4. Changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee:	
a. To provide for more frequent monitoring, reporting, sampling, or maintenance.	1
b. Other changes	2
5. Schedule of compliance:	
a. Changes in interim compliance dates, with prior approval of the Director.	1[1]
b. Extension of final compliance date.	3
6. Changes in expiration date of permit to allow earlier permit termination, with prior approval of the Director.	1[1]
7. Changes in ownership or operational control of a facility, provided the procedures of § 270.40(b) are followed.	1[1]
B. General Facility Standards	
1. Changes to waste sampling or analysis methods:	
a. To conform with agency guidance or regulations.	1
b. To incorporate changes associated with F039 (multi-source leachate) sampling or analysis methods.	(1) 1

b. To incorporate changes associated with F039 (multi-source leachate) sampling or analysis methods.	1
c. Other changes.	2
2. Changes to analytical quality assurance/control plan:	
a. To conform with agency guidance or regulations.	1
b. Other changes.	2
3. Changes in procedures for maintaining the operating record.	1
4. Changes in frequency or content of inspection schedules.	2
5. Changes in the training plan:	
a. That affect the type or decrease the amount of training given to employees.	2
b. Other changes.	1
6. Contingency plan:	
a. Changes in emergency procedures (i.e., spill or release response procedures).	2
b. Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed.	1
c. Removal of equipment from emergency equipment list.	2
d. Changes in name, address, or phone number of coordinators or other persons or agencies identified in the plan.	1

Note: When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change shall be reviewed under the same procedures as the permit modification.

C. Ground-Water Protection

1. Changes to wells:	
a. Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted ground-water monitoring system.	2
b. Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well.	1
2. Changes in ground-water sampling or analysis procedures or monitoring schedule, with prior approval of the Director.	1_1
3. Changes in statistical procedure for determining whether a statistically significant change in ground-water quality between upgradient and downgradient wells has occurred, with prior approval of the Director.	1_1
4. Changes in point of compliance.	1_2
5. Changes in indicator parameters, hazardous constituents, or concentration limits (including ACLs):	
a. As specified in the groundwater protection standard.	3
b. As specified in the detection monitoring program.	2
6. Changes to a detection monitoring program as required by § 264.98(j), unless otherwise specified in this appendix.	2
7. Compliance monitoring program:	
a. Addition of compliance monitoring program as required by §§ 264.98(h)(4) and 264.99.	3
b. Changes to a compliance monitoring program as required by § 264.99(k), unless otherwise specified in this appendix.	2
8. Corrective action program:	
a. Addition of a corrective action program as required by §§ 264.99(i)(2) and 264.100.	3
b. Changes to a corrective action program as required by § 264.100(h), unless otherwise specified in this appendix.	2

D. Closure

1. Changes to the closure plan:	
a. Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the Director.	1_1
b. Changes in the closure schedule for any unit, changes in the final closure schedule for the facility, or extension of the closure period, with prior approval of the Director.	1_1
c. Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the Director.	1_1
d. Changes in procedures for decontamination of facility equipment or structures, with prior approval of the Director.	1_1

e. Changes in approved closure plan resulting from unexpected events occurring during partial or final closure, unless otherwise specified in this appendix.	2
f. Extension of the closure period to allow a landfill, surface impoundment or land treatment unit to receive non-hazardous wastes after final receipt of hazardous wastes under § 264.113 (d) and (e).	2
2. Creation of a new landfill unit as part of closure.	3
3. Addition of the following new units to be used temporarily for closure activities:	
a. Surface impoundments.	3
b. Incinerators.	3
c. Waste piles that do not comply with § 264.250(c).	3
d. Waste piles that comply with § 264.250(c).	2
e. Tanks or containers (other than specified below).	2
f. Tanks used for neutralization, dewatering, phase separation, or component separation, with prior approval of the Director.	1[1]
E. Post-Closure	
1. Changes in name, address, or phone number of contact in post-closure plan.	1
2. Extension of post-closure care period.	2
3. Reduction in the post-closure care period.	3
4. Changes to the expected year of final closure, where other permit conditions are not changed.	1
5. Changes in post-closure plan necessitated by events occurring during the active life of the facility, including partial and final closure.	2
F. Containers	
1. Modification or addition of container units:	
a. Resulting in greater than 25% increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a) below.	3
b. Resulting in up to 25% increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a) below.	2
c. Or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of ``use of practically available technology that yields the greatest environmental benefit'' contained in § 268.8(a)(2)(ii), with prior approval of the Director. This modification may also involve addition of new waste codes or narrative descriptions of wastes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028).	1[1]
2:	
a. Modification of a container unit without increasing the capacity of the unit.	2
b. Addition of a roof to a container unit without alteration of the containment system.	1
3. Storage of different wastes in containers, except as provided in (F)(4) below:	
a. That require additional or different management practices from those authorized in the permit.	3
b. That do not require additional or different management practices from those authorized in the permit.	2
Note: See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	
4. Storage of treatment of different wastes in containers:	
a. That require addition of units or change in treatment process or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards, or that are to be treated to satisfy (in whole or in part) the standard of ``use of practically available technology that yields the greatest environmental benefit'' contained in § 268.8(a)(2)(ii). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028).	1
b. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028).	1[1]
G. Tanks	

1:

a. Modification or addition of tank units resulting in greater than 25% increase in the facility's tank capacity, except as provided in G(1)(c), G(1)(d), and G(1)(e) below. 3

b. Modification or addition of tank units resulting in up to 25% increase in the facility's tank capacity, except as provided in G(1)(d) and G(1)(e) below. 2

c. Addition of a new tank that will operate for more than 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation. 2

d. After prior approval of the Director, addition of a new tank that will operate for up to 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation. 1_1

e. Modification or addition of tank units or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of ``use of practically available technology that yields the greatest environmental benefit'' contained in § 268.8(a)(2)(ii), with prior approval of the Director. This modification may also involve addition of new waste codes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028). 1_1

2. Modification of a tank unit or secondary containment system without increasing the capacity of the unit. 2

3. Replacement of a tank with a tank that meets the same design standards and has a capacity within +/- 10% of the replaced tank provided. 1

-- The capacity difference is no more than 1500 gallons,

-- The facility's permitted tank capacity is not increased, and

-- The replacement tank meets the same conditions in the permit.

4. Modification of a tank management practice. 2

5. Management of different wastes in tanks:

a. That require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process from that authorized in the permit, except as provided in (G)(5)(c) below. 3

b. That do not require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process than authorized in the permit, except as provided in (G)(5)(d). 2

c. That require addition of units or change in treatment processes or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards or that are to be treated to satisfy (in whole or in part) the standard of ``use of practically available technology that yields the greatest environmental benefit'' contained in § 268.8(a)(2)(ii). The modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028). 1_1

d. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028). 1

Note: See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.

H. Surface Impoundments

1. Modification or addition of surface impoundment units that result in increasing the facility's surface impoundment storage or treatment capacity. 3

2. Replacement of a surface impoundment unit. 3

3. Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment capacity and without modifying the unit's liner, leak detection system, or leachate collection system. 2

4. Modification of a surface impoundment management practice. 2

5. Treatment, storage, or disposal of different wastes in surface impoundments:
   a. That require additional or different management practices or different design of the liner or leak detection system than authorized in the permit. 3
   b. That do not require additional or different management practices or different design of the liner or leak detection system than authorized in the permit. 2
   c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of ``use of practically available technology that yields the greatest environmental benefit'' contained in § 269.8(a)(2)(ii), and provided that the unit meets the minimum technological requirements stated in § 268.5(h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028). 1
   d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a unit that meets the minimum technological requirements stated in § 268.5(h)(2), and provided further that the surface impoundment has previously received wastes of the same type (for example, incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

Note: See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.

I. Enclosed Waste Piles. For all waste piles except those complying with § 264.250(c), modifications are treated the same as for a landfill. The following modifications are applicable only to waste piles complying with § 264.250(c).

1. Modification or addition of waste pile units:
   a. Resulting in greater than 25% increase in the facility's waste pile storage or treatment capacity. 3
   b. Resulting in up to 25% increase in the facility's waste pile storage or treatment capacity. 2
2. Modification of waste pile unit without increasing the capacity of the unit. 2
3. Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit. 1
4. Modification of a waste pile management practice. 2
5. Storage or treatment of different wastes in waste piles:
   a. That require additional or different management practices or different design of the unit. 3
   b. That do not require additional or different management practices or different design of the unit. 2

Note: See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.

J. Landfills and Unenclosed Waste Piles

1. Modification or addition of landfill units that result in increasing the facility's disposal capacity. 3
2. Replacement of a landfill. 3
3. Addition or modification of a liner, leachate collection system, leachate detection system, run-off control, or final cover system. 3
4. Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, run-off control, or final cover system. 2
5. Modification of a landfill management practice. 2
6. Landfill different wastes:
   a. That require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system. 3
   b. That do not require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system. 2
   c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of ``use of practically available technology that yields the greatest environmental benefit'' contained in § 268.8(a)(2)(ii), and provided that the landfill unit meets the minimum technological requirements stated in § 268.5(h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028). 1

d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a landfill unit that meets the minimum technological requirements stated in § 268.5(h)(2), and provided further that the landfill has previously received wastes of the same type (for example, incinerator ash). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028).	1

Note: See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.

K. Land Treatment

1. Lateral expansion of or other modification of a land treatment unit to increase areal extent.	3
2. Modification of run-on control system.	2
3. Modify run-off control system.	3
4. Other modifications of land treatment unit component specifications or standards required in permit.	2
5. Management of different wastes in land treatment units:	
a. That require a change in permit operating conditions or unit design specifications.	3
b. That do not require a change in permit operating conditions or unit design specifications.	2

Note: See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.

6. Modification of a land treatment unit management practice to:	
a. Increase rate or change method of waste application.	3
b. Decrease rate of waste application.	1
7. Modification of a land treatment unit management practice to change measures of pH or moisture content, or to enhance microbial or chemical reactions.	2
8. Modification of a land treatment unit management practice to grow food chain crops, to add to or replace existing permitted crops with different food chain crops, or to modify operating plans for distribution of animal feeds resulting from such crops.	3
9. Modification of operating practice due to detection of releases from the land treatment unit pursuant to § 264.278(g)(2).	3
10. Changes in the unsaturated zone monitoring system, resulting in a change to the location, depth, number of sampling points, or replace unsaturated zone monitoring devices or components of devices with devices or components that have specifications different from permit requirements.	3
11. Changes in the unsaturated zone monitoring system that do not result in a change to the location, depth, number of sampling points, or that replace unsaturated zone monitoring devices or components of devices with devices or components having specifications different from permit requirements.	2
12. Changes in background values for hazardous constituents in soil and soil-pore liquid.	2
13. Changes in sampling, analysis, or statistical procedure.	2
14. Changes in land treatment demonstration program prior to or during the demonstration.	2
15. Changes in any condition specified in the permit for a land treatment unit to reflect results of the land treatment demonstration, provided performance standards are met, and the Director's prior approval has been received.	1_1
16. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and have received the prior approval of the Director.	1_1
17. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, where the conditions for the second demonstration are not substantially the same as the conditions for the first demonstration.	3
18. Changes in vegetative cover requirements for closure.	2

L. Incinerators, Boilers, and Industrial Furnaces:

1. Changes to increase by more than 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The Director	3

will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.	
2. Changes to increase by up to 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.	2
3. Modification of an incinerator, boiler, or industrial furnace unit by changing the internal size or geometry of the primary or secondary combustion units, by adding a primary or secondary combustion unit, by substantially changing the design of any component used to remove HCl/Cl_2, metals, or particulate from the combustion gases, or by changing other features of the incinerator, boiler, or industrial furnace that could affect its capability to meet the regulatory performance standards. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.	3
4. Modification of an incinerator, boiler, or industrial furnace unit in a manner that would not likely affect the capability of the unit to meet the regulatory performance standards but which would change the operating conditions or monitoring requirements specified in the permit. The Director may require a new trial burn to demonstrate compliance with the regulatory performance standards.	2
5. Operating requirements.	
a. Modification of the limits specified in the permit for minimum or maximum combustion gas temperature, minimum combustion gas residence time, oxygen concentration in the secondary combustion chamber, flue gas carbon monoxide and hydrocarbon concentration, maximum temperature at the inlet to the particulate matter emission control system, or operating parameters for the air pollution control system. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.	3
b. Modification of any stack gas emission limits specified in the permit, or modification of any conditions in the permit concerning emergency shutdown or automatic waste feed cutoff procedures or controls.	3
c. Modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit.	2
6. Burning different wastes:	
a. If the waste contains a POHC that is more difficult to burn than authorized by the permit or if burning of the waste requires compliance with different regulatory performance standards than specified in the permit. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.	3
b. If the waste does not contain a POHC that is more difficult to burn than authorized by the permit and if burning of the waste does not require compliance with different regulatory performance standards than specified in the permit.	2
Note: See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	
7. Shakedown and trial burn:	
a. Modification of the trial burn plan or any of the permit conditions applicable during the shakedown period for determining operational readiness after construction, the trial burn period, or the period immediately following the trial burn.	2
b. Authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operational readiness after construction, with the prior approval of the Director.	[1]1
c. Changes in the operating requirements set in the permit for conducting a trial burn, provided the change is minor and has received the prior approval of the Director.	[1]1
d. Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided the change is minor and has received the prior approval of the Director.	[1]1
8. Substitution of an alternative type of nonhazardous waste fuel that is not specified in the permit.	1

FOOTNOTE: [1]Class 1 modifications requiring prior Agency approval.

[53 FR 37936, Sept. 28, 1988, as amended at 53 FR 37939, Sept. 28, 1988; 53 FR 41649, October 24, 1988; 54 FR 9607, Mar. 7, 1989; 54 FR 33398, Aug. 14, 1989; 55 FR 22719, June 1, 1990; 56 FR 3928, Jan. 31, 1991; 56 FR 32692, July 17, 1991; 56 FR 7237, Feb. 21, 1991; 56 FR 32692, July 17, 1991]

§ 270.43 Termination of permits.

(a) The following are causes for terminating a permit during its term, or for denying a permit renewal application:

(1) Noncompliance by the permittee with any condition of the permit;

(2) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or

(3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.

(b) The Director shall follow the applicable procedures in part 124 or State procedures in terminating any permit under this section.

Subpart E -- Expiration and Continuation of Permits

§ 270.50 Duration of permits.

(a) RCRA permits shall be effective for a fixed term not to exceed 10 years.

(b) Except as provided in § 270.51, the term of a permit shall not be extended by modification beyond the maximum duration specified in this section.

(c) The Director may issue any permit for a duration that is less than the full allowable term under this section.

(d) Each permit for a land disposal facility shall be reviewed by the Director five years after the date of permit issuance or reissuance and shall be modified as necessary, as provided in § 270.41.

[48 FR 14228, Apr. 1, 1983, as amended at 50 FR 28752, July 15, 1985]

§ 270.51 Continuation of expiring permits.

(a) EPA permits. When EPA is the permit-issuing authority, the conditions of an expired permit continue in force under 5 U.S.C. 558(c) until the effective date of a new permit (see § 124.15) if:

(1) The permittee has submitted a timely application under § 270.14 and the applicable sections in §§ 270.15 through 270.29 which is a complete (under § 270.10(c)) application for a new permit; and

(2) The Regional Administrator through no fault of the permittee, does not issue a new permit with an effective date under § 124.15 on or before the expiration date of the previous permit (for example, when issuance is impracticable due to time or resource constraints).

(b) Effect. Permits continued under this section remain fully effective and enforceable.

(c) Enforcement. When the permittee is not in compliance with the conditions of the expiring or expired permit, the Regional Administrator may choose to do any or all of the following:

(1) Initiate enforcement action based upon the permit which has been continued;

(2) Issue a notice of intent to deny the new permit under § 124.6. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

(3) Issue a new permit under part 124 with appropriate conditions; or

(4) Take other actions authorized by these regulations.

(d) State continuation. In a State with an hazardous waste program authorized under 40 CFR part 271, if a permittee has submitted a timely and complete application under applicable State law and regulations, the

terms and conditions of an EPA-issued RCRA permit continue in force beyond the expiration date of the permit, but only until the effective date of the State's issuance or denial of a State RCRA permit.

(Clean Water Act (33 U.S.C. 1251 et seq.), Safe Drinking Water Act (42 U.S.C. 300f et seq.), Clean Air Act (42 U.S.C. 7401 et seq.), Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.))

[48 FR 14228, Apr. 1, 1983, as amended at 48 FR 39622, Sept. 1, 1983]

Subpart F -- Special Forms of Permits

§ 270.60 Permits by rule.

Notwithstanding any other provision of this part or part 124, the following shall be deemed to have a RCRA permit if the conditions listed are met:

(a) Ocean disposal barges or vessels. The owner or operator of a barge or other vessel which accepts hazardous waste for ocean disposal, if the owner or operator:

(1) Has a permit for ocean dumping issued under 40 CFR part 220 (Ocean Dumping, authorized by the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. 1420 et seq.);

(2) Complies with the conditions of that permit; and

(3) Complies with the following hazardous waste regulations:

(i) 40 CFR 264.11, Identification number;

(ii) 40 CFR 264.71, Use of manifest system;

(iii) 40 CFR 264.72, Manifest discrepancies;

(iv) 40 CFR 264.73(a) and (b)(1), Operating record;

(v) 40 CFR 264.75, Biennial report; and

(vi) 40 CFR 264.76, Unmanifested waste report.

(b) Injection wells. The owner or operator of an injection well disposing of hazardous waste, if the owner or operator:

(1) Has a permit for underground injection issued under part 144 or 145; and

(2) Complies with the conditions of that permit and the requirements of § 144.14 (requirements for wells managing hazardous waste).

(3) For UIC permits issued after November 8, 1984:

(i) Complies with 40 CFR 264.101; and

(ii) Where the UIC well is the only unit at a facility which requires a RCRA permit, complies with 40 CFR 270.14(d).

(c) Publicly owned treatment works. The owner or operator of a POTW which accepts for treatment hazardous waste, if the owner or operator:

(1) Has an NPDES permit;

(2) Complies with the conditions of that permit; and

(3) Complies with the following regulations:

(i) 40 CFR 264.11, Identification number;

(ii) 40 CFR 264.71, Use of manifest system;

(iii) 40 CFR 264.72, Manifest discrepancies;

(iv) 40 CFR 264.73(a) and (b)(1), Operating record;

(v) 40 CFR 264.75, Biennial report;

(vi) 40 CFR 264.76, Unmanifested waste report; and

(vii) For NPDES permits issued after November 8, 1984, 40 CFR 264.101.

(4) If the waste meets all Federal, State, and local pretreatment requirements which would be applicable to the waste if it were being discharged into the POTW through a sewer, pipe, or similar conveyance.

(Approved by the Office of Management and Budget under control number 2050-0007)

[48 FR 14228, Apr. 1, 1983, as amended at 50 FR 28752, July 15, 1985; 52 FR 45799, Dec. 1, 1987]

§ 270.61 Emergency permits.

(a) Notwithstanding any other provision of this part or part 124, in the event the Director finds an imminent and substantial endangerment to human health or the environment the Director may issue a temporary emergency permit: (1) To a non-permitted facility to allow treatment, storage, or disposal of hazardous waste or (2) to a permitted facility to allow treatment, storage, or disposal of a hazardous waste not covered by an effective permit.

(b) This emergency permit:

(1) May be oral or written. If oral, it shall be followed in five days by a written emergency permit;

(2) Shall not exceed 90 days in duration;

(3) Shall clearly specify the hazardous wastes to be received, and the manner and location of their treatment, storage, or disposal;

(4) May be terminated by the Director at any time without process if he or she determines that termination is appropriate to protect human health and the environment;

(5) Shall be accompanied by a public notice published under § 124.11(b) including:

(i) Name and address of the office granting the emergency authorization;

(ii) Name and location of the permitted HWM facility;

(iii) A brief description of the wastes involved;

(iv) A brief description of the action authorized and reasons for authorizing it; and

(v) Duration of the emergency permit; and

(6) Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this part and 40 CFR parts 264 and 266.

[48 FR 14228, Apr. 1, 1983, as amended at 48 FR 30114, June 30, 1983]

§ 270.62 Hazardous waste incinerator permits.

(a) For the purposes of determining operational readiness following completion of physical construction, the Director must establish permit conditions, including but not limited to allowable waste feeds and operating conditions, in the permit to a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to bring the incinerator to a point of operational readiness to conduct a trial burn, not to exceed 720 hours operating time for treatment of hazardous waste. The Director may extend the duration of this operational period once, for up to 720 additional hours, at the request of the applicant when good cause is shown. The permit may be modified to reflect the extension according to § 270.42 of this chapter.

(1) Applicants must submit a statement, with Part B of the permit application, which suggests the conditions necessary to operate in compliance with the performance standards of § 264.343 of this chapter during this period. This statement should include, at a minimum, restrictions on waste constituents, waste feed rates and the operating parameters identified in § 264.345 of this chapter.

(2) The Director will review this statement and any other relevant information submitted with Part B of the permit application and specify requirements for this period sufficient to meet the performance standards of § 264.343 of this chapter based on his engineering judgment.

(b) For the purposes of determining feasibility of compliance with the performance standards of § 264.343 of this chapter and of determining adequate operating conditions under § 264.345 of this chapter, the Director must establish conditions in the permit for a new hazardous waste incinerator to be effective during the trial burn.

(1) Applicants must propose a trial burn plan, prepared under paragraph (b)(2) of this section with a Part B of the permit application.

(2) The trial burn plan must include the following information:

(i) An analysis of each waste or mixture of wastes to be burned which includes:

(A) Heat value of the waste in the form and composition in which it will be burned.

(B) Viscosity (if applicable), or description of the physical form of the waste.

(C) An identification of any hazardous organic constituents listed in part 261, appendix VIII of this chapter, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in part 261, appendix VIII, of this chapter which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified, and the basis for the exclusion stated. The waste analysis must rely on analytical techniques specified in ``Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods'' (incorporated by reference, see § 270.6), or other equivalent.

(D) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods specified in ``Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods,'' (incorporated by reference, see § 270.6), or their equivalent.

(ii) A detailed engineering description of the incinerator for which the permit is sought including:

(A) Manufacturer's name and model number of incinerator (if available).

(B) Type of incinerator.

(C) Linear dimensions of the incinerator unit including the cross sectional area of combustion chamber.

(D) Description of the auxiliary fuel system (type/feed).

(E) Capacity of prime mover.

(F) Description of automatic waste feed cut-off system(s).

(G) Stack gas monitoring and pollution control equipment.

(H) Nozzle and burner design.

(I) Construction materials.

(J) Location and description of temperature, pressure, and flow indicating and control devices.

(iii) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis.

(iv) A detailed test schedule for each waste for which the trial burn is planned including date(s), duration, quantity of waste to be burned, and other factors relevant to the Director's decision under paragraph (b)(5) of this section.

(v) A detailed test protocol, including, for each waste identified, the ranges of temperature, waste feed rate, combustion gas velocity, use of auxiliary fuel, and any other relevant parameters that will be varied to affect the destruction and removal efficiency of the incinerator.

(vi) A description of, and planned operating conditions for, any emission control equipment which will be used.

(vii) Procedures for rapidly stopping waste feed, shutting down the incinerator, and controlling emissions in the event of an equipment malfunction.

(viii) Such other information as the Director reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this paragraph and the criteria in paragraph (b)(5) of this section.

(3) The Director, in reviewing the trial burn plan, shall evaluate the sufficiency of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this paragraph.

(4) Based on the waste analysis data in the trial burn plan, the Director will specify as trial Principal Organic Hazardous Constituents (POHCs), those constituents for which destruction and removal efficiencies must be calculated during the trial burn. These trial POHCs will be specified by the Director based on his estimate of the difficulty of incineration of the constituents identified in the waste analysis, their concentration or mass in the waste feed, and, for wastes listed in part 261, subpart D, of this chapter, the hazardous waste organic constituent or constituents identified in Appendix VII of that part as the basis for listing.

(5) The Director shall approve a trial burn plan if he finds that:

(i) The trial burn is likely to determine whether the incinerator performance standard required by § 264.343 of this chapter can be met;

(ii) The trial burn itself will not present an imminent hazard to human health or the environment;

(iii) The trial burn will help the Director to determine operating requirements to be specified under § 264.345 of this chapter; and

(iv) The information sought in paragraphs (b)(5) (i) and (ii) of this section cannot reasonably be developed through other means.

(6) During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:

(i) A quantitative analysis of the trial POHCs in the waste feed to the incinerator.

(ii) A quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial POHCs, oxygen (O_2) and hydrogen chloride (HCl).

(iii) A quantitative analysis of the scrubber water (if any), ash residues, and other residues, for the purpose of estimating the fate of the trial POHCs.

(iv) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in § 264.343(a) of this chapter.

(v) If the HCl emission rate exceeds 1.8 kilograms of HCl per hour (4 pounds per hour), a computation of HCl removal efficiency in accordance with § 264.343(b) of this chapter.

(vi) A computation of particulate emissions, in accordance with § 264.343(c) of this chapter.

(vii) An identification of sources of fugitive emissions and their means of control.

(viii) A measurement of average, maximum, and minimum temperatures and combustion gas velocity.

(ix) A continuous measurement of carbon monoxide (CO) in the exhaust gas.

(x) Such other information as the Director may specify as necessary to ensure that the trial burn will determine compliance with the performance standards in § 264.343 of this chapter and to establish the operating conditions required by § 264.345 of this chapter as necessary to meet that performance standard.

(7) The applicant must submit to the Director a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all the determinations required

in paragraph (b)(6) of this section. This submission shall be made within 90 days of completion of the trial burn, or later if approved by the Director.

(8) All data collected during any trial burn must be submitted to the Director following the completion of the trial burn.

(9) All submissions required by this paragraph must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report under § 270.11.

(10) Based on the results of the trial burn, the Director shall set the operating requirements in the final permit according to § 264.345 of this chapter. The permit modification shall proceed according to § 270.42.

(c) For the purposes of allowing operation of a new hazardous waste incinerator following completion of the trial burn and prior to final modification of the permit conditions to reflect the trial burn results, the Director may establish permit conditions, including but not limited to allowable waste feeds and operating conditions sufficient to meet the requirements of § 264.345 of this chapter, in the permit to a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to complete sample analysis, data computation and submission of the trial burn results by the applicant, and modification of the facility permit by the Director.

(1) Applicants must submit a statement, with Part B of the permit application, which identifies the conditions necessary to operate in compliance with the performance standards of § 264.343 of this chapter, during this period. This statement should include, at a minimum, restrictions on waste constituents, waste feed rates, and the operating parameters in § 264.345 of this chapter.

(2) The Director will review this statement and any other relevant information submitted with Part B of the permit application and specify those requirements for this period most likely to meet the performance standards of § 264.343 of this chapter based on his engineering judgment.

(d) For the purpose of determining feasibility of compliance with the performance standards of § 264.343 of this chapter and of determining adequate operating conditions under § 264.345 of this chapter, the applicant for a permit for an existing hazardous waste incinerator must prepare and submit a trial burn plan and perform a trial burn in accordance with § 270.19(b) and paragraphs (b)(2) through (b)(9) of this section or, instead, submit other information as specified in § 270.19(c). Applicants submitting information under § 270.19(a) are exempt from compliance with §§ 264.343 and 264.345 and, therefore, are exempt from the requirement to conduct a trial burn. Applicants who submit trial burn plans and receive approval before submission of a permit application must complete the trial burn and submit the results, specified in paragraph (b)(6), with Part B of the permit application. If completion of this process conflicts with the date set for submission of the Part B application, the applicant must contact the Director to establish a later date for submission of the Part B application or the trial burn results. Trial burn results must be submitted prior to issuance of the permit. When the applicant submits a trial burn plan with Part B of the permit application, the Director will specify a time period prior to permit issuance in which the trial burn must be conducted and the results submitted.

[48 FR 14228, Apr. 1, 1983, as amended at 53 FR 37939, Sept. 28, 1988; 54 FR 4288, Jan. 30, 1989]

§ 270.63 Permits for land treatment demonstrations using field test or laboratory analyses.

(a) For the purpose of allowing an owner or operator to meet the treatment demonstration requirements of § 264.272 of this chapter, the Director may issue a treatment demonstration permit. The permit must contain only those requirements necessary to meet the standards in § 264.272(c). The permit may be issued either as a treatment or disposal permit covering only the field test or laboratory analyses, or as a two-phase facility permit covering the field tests, or laboratory analyses, and design, construction operation and maintenance of the land treatment unit.

(1) The Director may issue a two-phase facility permit if he finds that, based on information submitted in Part B of the application, substantial, although incomplete or inconclusive, information already exists upon which to base the issuance of a facility permit.

(2) If the Director finds that not enough information exists upon which he can establish permit conditions to attempt to provide for compliance with all of the requirements of subpart M, he must issue a treatment demonstration permit covering only the field test or laboratory analyses.

(b) If the Director finds that a phased permit may be issued, he will establish, as requirements in the first phase of the facility permit, conditions for conducting the field tests or laboratory analyses. These permit conditions will include design and operating parameters (including the duration of the tests or analyses

and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone), monitoring procedures, post-demonstration clean-up activities, and any other conditions which the Director finds may be necessary under § 264.272(c). The Director will include conditions in the second phase of the facility permit to attempt to meet all subpart M requirements pertaining to unit design, construction, operation, and maintenance. The Director will establish these conditions in the second phase of the permit based upon the substantial but incomplete or inconclusive information contained in the Part B application.

(1) The first phase of the permit will be effective as provided in § 124.15(b) of this chapter.

(2) The second phase of the permit will be effective as provided in paragraph (d) of this section.

(c) When the owner or operator who has been issued a two-phase permit has completed the treatment demonstration, he must submit to the Director a certification, signed by a person authorized to sign a permit application or report under § 270.11, that the field tests or laboratory analyses have been carried out in accordance with the conditions specified in phase one of the permit for conducting such tests or analyses. The owner or operator must also submit all data collected during the field tests or laboratory analyses within 90 days of completion of those tests or analyses unless the Director approves a later date.

(d) If the Director determines that the results of the field tests or laboratory analyses meet the requirements of § 264.272 of this chapter, he will modify the second phase of the permit to incorporate any requirements necessary for operation of the facility in compliance with part 264, subpart M, of this chapter, based upon the results of the field tests or laboratory analyses.

(1) This permit modification may proceed under § 270.42, or otherwise will proceed as a modification under § 270.41(a)(2). If such modifications are necessary, the second phase of the permit will become effective only after those modifications have been made.

(2) If no modifications of the second phase of the permit are necessary, the Director will give notice of his final decision to the permit applicant and to each person who submitted written comments on the phased permit or who requested notice of the final decision on the second phase of the permit. The second phase of the permit then will become effective as specified in § 124.15(b).

[48 FR 14228, Apr. 1, 1983, as amended at 53 FR 37939, Sept. 28, 1988]

§ 270.64 Interim permits for UIC wells.

The Director may issue a permit under this part to any Class I UIC well (see § 144.6) injecting hazardous wastes within a State in which no UIC program has been approved or promulgated. Any such permit shall apply and insure compliance with all applicable requirements of 40 CFR part 264, subpart R (RCRA standards for wells), and shall be for a term not to exceed two years. No such permit shall be issued after approval or promulgation of a UIC program in the State. Any permit under this section shall contain a condition providing that it will terminate upon final action by the Director under a UIC program to issue or deny a UIC permit for the facility.

[48 FR 14228, Apr. 1, 1983; 48 FR 30114, June 30, 1983]

§ 270.65 Research, development, and demonstration permits.

(a) The Administrator may issue a research, development, and demonstration permit for any hazardous waste treatment facility which proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which permit standards for such experimental activity have not been promulgated under part 264 or 266. Any such permit shall include such terms and conditions as will assure protection of human health and the environment. Such permits:

(1) Shall provide for the construction of such facilities as necessary, and for operation of the facility for not longer than one year unless renewed as provided in paragraph (d) of this section, and

(2) Shall provide for the receipt and treatment by the facility of only those types and quantities of hazardous waste which the Administrator deems necessary for purposes of determining the efficacy and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment, and

(3) Shall include such requirements as the Administrator deems necessary to protect human health and the environment (including, but not limited to, requirements regarding monitoring, operation, financial responsibility, closure, and remedial action), and such requirements as the Administrator deems necessary regarding testing and providing of information to the Administrator with respect to the operation of the facility.

(b) For the purpose of expediting review and issuance of permits under this section, the Administrator may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements in parts 124 and 270 except that there may be no modification or waiver of regulations regarding financial responsibility (including insurance) or of procedures regarding public participation.

(c) The Administrator may order an immediate termination of all operations at the facility at any time he determines that termination is necessary to protect human health and the environment.

(d) Any permit issued under this section may be renewed not more than three times. Each such renewal shall be for a period of not more than 1 year.

[50 FR 28752, July 15, 1985]

§ 270.66 Permits for boilers and industrial furnaces burning hazardous waste.

(a) General. Owners and operators of new boilers and industrial furnaces (those not operating under the interim status standards of § 266.103 of this chapter) are subject to paragraphs (b) through (f) of this section. Boilers and industrial furnaces operating under the interim status standards of § 266.103 of this chapter are subject to paragraph (g) of this section.

(b) Permit operating periods for new boilers and industrial furnaces. A permit for a new boiler or industrial furnace shall specify appropriate conditions for the following operating periods:

(1) Pretrial burn period. For the period beginning with initial introduction of hazardous waste and ending with initiation of the trial burn, and only for the minimum time required to bring the boiler or industrial furnace to a point of operational readiness to conduct a trial burn, not to exceed 720 hours operating time when burning hazardous waste, the Director must establish in the Pretrial Burn Period of the permit conditions, including but not limited to, allowable hazardous waste feed rates and operating conditions. The Director may extend the duration of this operational period once, for up to 720 additional hours, at the request of the applicant when good cause is shown. The permit may be modified to reflect the extension according to § 270.42.

(i) Applicants must submit a statement, with part B of the permit application, that suggests the conditions necessary to operate in compliance with the standards of §§ 266.104 through 266.107 of this chapter during this period. This statement should include, at a minimum, restrictions on the applicable operating requirements identified in § 266.102(e) of this chapter.

(ii) The Director will review this statement and any other relevant information submitted with part B of the permit application and specify requirements for this period sufficient to meet the performance standards of §§ 266.104 through 266.107 of this chapter based on his/her engineering judgment.

(2) Trial burn period. For the duration of the trial burn, the Director must establish conditions in the permit for the purposes of determining feasibility of compliance with the performance standards of §§ 266.104 through 266.107 of this chapter and determining adequate operating conditions under § 266.102(e) of this chapter. Applicants must propose a trial burn plan, prepared under paragraph (c) of this section, to be submitted with part B of the permit application.

(3) Post-trial burn period. (i) For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow sample analysis, data computation, and submission of the trial burn results by the applicant, and review of the trial burn results and modification of the facility permit by the Director to reflect the trial burn results, the Director will establish the operating requirements most likely to ensure compliance with the performance standards of §§ 266.104 through 266.107 of this chapter based on his engineering judgment.

(ii) Applicants must submit a statement, with part B of the application, that identifies the conditions necessary to operate during this period in compliance with the performance standards of §§ 266.104 through 266.107 of this chapter. This statement should include, at a minimum, restrictions on the operating requirements provided by § 266.102(e) of this chapter.

(iii) The Director will review this statement and any other relevant information submitted with part B of the permit application and specify requirements for this period sufficient to meet the performance standards of §§ 266.104 through 266.107 of this chapter based on his/her engineering judgment.

(4) Final permit period. For the final period of operation, the Director will develop operating requirements in conformance with § 266.102(e) of this chapter that reflect conditions in the trial burn plan and are likely to ensure compliance with the performance standards of §§ 266.104 through 266.107 of this

chapter. Based on the trial burn results, the Director shall make any necessary modifications to the operating requirements to ensure compliance with the performance standards. The permit modification shall proceed according to § 270.42.

(c) Requirements for trial burn plans. The trial burn plan must include the following information. The Director, in reviewing the trial burn plan, shall evaluate the sufficiency of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this paragraph:

(1) An analysis of each feed stream, including hazardous waste, other fuels, and industrial furnace feed stocks, as fired, that includes:

(i) Heating value, levels of antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver, thallium, total chlorine/chloride, and ash;

(ii) Viscosity or description of the physical form of the feed stream;

(2) An analysis of each hazardous waste, as fired, including:

(i) An identification of any hazardous organic constituents listed in appendix VIII, part 261, of this chapter that are present in the feed stream, except that the applicant need not analyze for constituents listed in appendix VIII that would reasonably not be expected to be found in the hazardous waste. The constituents excluded from analysis must be identified and the basis for this exclusion explained. The analysis must be conducted in accordance with analytical techniques specified in Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (incorporated by reference, see § 270.6), or their equivalent.

(ii) An approximate quantification of the hazardous constituents identified in the hazardous waste, within the precision produced by the analytical methods specified in Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (incorporated by reference, see § 270.6), or other equivalent.

(iii) A description of blending procedures, if applicable, prior to firing the hazardous waste, including a detailed analysis of the hazardous waste prior to blending, an analysis of the material with which the hazardous waste is blended, and blending ratios.

(3) A detailed engineering description of the boiler or industrial furnace, including:

(i) Manufacturer's name and model number of the boiler or industrial furnace;

(ii) Type of boiler or industrial furnace;

(iii) Maximum design capacity in appropriate units;

(iv) Description of the feed system for the hazardous waste, and, as appropriate, other fuels and industrial furnace feedstocks;

(v) Capacity of hazardous waste feed system;

(vi) Description of automatic hazardous waste feed cutoff system(s); and

(vii) Description of any pollution control system; and

(viii) Description of stack gas monitoring and any pollution control monitoring systems.

(4) A detailed description of sampling and monitoring procedures including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis.

(5) A detailed test schedule for each hazardous waste for which the trial burn is planned, including date(s), duration, quantity of hazardous waste to be burned, and other factors relevant to the Director's decision under paragraph (b)(2) of this section.

(6) A detailed test protocol, including, for each hazardous waste identified, the ranges of hazardous waste feed rate, and, as appropriate, the feed rates of other fuels and industrial furnace feedstocks, and any other relevant parameters that may affect the ability of the boiler or industrial furnace to meet the performance standards in §§ 266.104 through 266.107 of this chapter.

(7) A description of, and planned operating conditions for, any emission control equipment that will be used.

(8) Procedures for rapidly stopping the hazardous waste feed and controlling emissions in the event of an equipment malfunction.

(9) Such other information as the Director reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this paragraph and the criteria in paragraph (b)(2) of this section.

(d) Trial burn procedures. (1) A trial burn must be conducted to demonstrate conformance with the standards of §§ 266.104 through 266.107 of this chapter under an approved trial burn plan.

(2) The Director shall approve a trial burn plan if he/she finds that:

(i) The trial burn is likely to determine whether the boiler or industrial furnace can meet the performance standards of §§ 266.104 through 266.107 of this chapter;

(ii) The trial burn itself will not present an imminent hazard to human health and the environment;

(iii) The trial burn will help the Director to determine operating requirements to be specified under § 266.102(e) of this chapter; and

(iv) The information sought in the trial burn cannot reasonably be developed through other means.

(3) The applicant must submit to the Director a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all the determinations required in paragraph (c) of this section. This submission shall be made within 90 days of completion of the trial burn, or later if approved by the Director.

(4) All data collected during any trial burn must be submitted to the Director following completion of the trial burn.

(5) All submissions required by this paragraph must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report under § 270.11.

(e) Special procedures for DRE trial burns. When a DRE trial burn is required under § 266.104(a) of this chapter, the Director will specify (based on the hazardous waste analysis data and other information in the trial burn plan) as trial Principal Organic Hazardous Constituents (POHCs) those compounds for which destruction and removal efficiencies must be calculated during the trial burn. These trial POHCs will be specified by the Director based on information including his/her estimate of the difficulty of destroying the constituents identified in the hazardous waste analysis, their concentrations or mass in the hazardous waste feed, and, for hazardous waste containing or derived from wastes listed in part 261, subpart D of this chapter, the hazardous waste organic constituent(s) identified in Appendix VII of that part as the basis for listing.

(f) Determinations based on trial burn. During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:

(1) A quantitative analysis of the levels of antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, thallium, silver, and chlorine/chloride, in the feed streams (hazardous waste, other fuels, and industrial furnace feedstocks);

(2) When a DRE trial burn is required under § 266.104(a) of this chapter:

(i) A quantitative analysis of the trial POHCs in the hazardous waste feed;

(ii) A quantitative analysis of the stack gas for the concentration and mass emissions of the trial POHCs; and

(iii) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in § 266.104(a) of this chapter;

(3) When a trial burn for chlorinated dioxins and furans is required under § 266.104(e) of this chapter, a quantitative analysis of the stack gas for the concentration and mass emission rate of the 2,3,7,8-chlorinated tetra-octa congeners of chlorinated dibenzo-p-dioxins and furans, and a computation showing conformance with the emission standard.

(4) When a trial burn for particulate matter, metals, or HCl/Cl_2 is required under §§ 266.105, 266.106 (c) or (d), or 266.107 (b)(2) or (c) of this chapter, a quantitative analysis of the stack gas for the

concentrations and mass emissions of particulate matter, metals, or hydrogen chloride (HCl) and chlorine (Cl_2), and computations showing conformance with the applicable emission performance standards;

(5) When a trial burn for DRE, metals, or HCl/Cl_2 is required under §§ 266.104(a), 266.106 (c) or (d), or 266.107 (b)(2) or (c) of this chapter, a quantitative analysis of the scrubber water (if any), ash residues, other residues, and products for the purpose of estimating the fate of the trial POHCs, metals, and chlorine/chloride;

(6) An identification of sources of fugitive emissions and their means of control;

(7) A continuous measurement of carbon monoxide (CO), oxygen, and where required, hydrocarbons (HC), in the stack gas; and

(8) Such other information as the Director may specify as necessary to ensure that the trial burn will determine compliance with the performance standards in §§ 266.104 through 266.107 of this chapter and to establish the operating conditions required by § 266.102(e) of this chapter as necessary to meet those performance standards.

(g) Interim status boilers and industrial furnaces. For the purpose of determining feasibility of compliance with the performance standards of §§ 266.104 through 266.107 of this chapter and of determining adequate operating conditions under § 266.103 of this chapter, applicants owning or operating existing boilers or industrial furnaces operated under the interim status standards of § 266.103 must either prepare and submit a trial burn plan and perform a trial burn in accordance with the requirements of this section or submit other information as specified in § 270.22(a)(6). Applicants who submit a trial burn plan and receive approval before submission of the part B permit application must complete the trial burn and submit the results specified in paragraph (f) of this section with the part B permit application. If completion of this process conflicts with the date set for submission of the part B application, the applicant must contact the Director to establish a later date for submission of the part B application or the trial burn results. If the applicant submits a trial burn plan with part B of the permit application, the trial burn must be conducted and the results submitted within a time period prior to permit issuance to be specified by the Director.

(Approved by the Office of Management and Budget under control number 2050-0073)

[56 FR 7239, Feb. 21, 1991; 56 FR 32692, July 17, 1991]

Subpart G -- Interim Status

§ 270.70 Qualifying for interim status.

(a) Any person who owns or operates an ``existing HWM facility'' or a facility in existence on the effective date of statutory or regulatory amendments under the Act that render the facility subject to the requirement to have an RCRA permit shall have interim status and shall be treated as having been issued a permit to the extent he or she has:

(1) Complied with the requirements of section 3010(a) of RCRA pertaining to notification of hazardous waste activity.

[Comment: Some existing facilities may not be required to file a notification under section 3010(a) of RCRA. These facilities may qualify for interim status by meeting paragraph (a)(2) of this section.]

(2) Complied with the requirements of § 270.10 governing submission of Part A applications;

(b) Failure to qualify for interim status. If EPA has reason to believe upon examination of a Part A application that it fails to meet the requirements of § 270.13, it shall notify the owner or operator in writing of the apparent deficiency. Such notice shall specify the grounds for EPA's belief that the application is deficient. The owner or operator shall have 30 days from receipt to respond to such a notification and to explain or cure the alleged deficiency in his Part A application. If, after such notification and opportunity for response, EPA determines that the application is deficient it may take appropriate enforcement action.

(c) Paragraph (a) of this section shall not apply to any facility which has been previously denied a RCRA permit or if authority to operate the facility under RCRA has been previously terminated.

[48 FR 14228, Apr. 1, 1983, as amended at 49 FR 17718, Apr. 24, 1984; 50 FR 28753, July 15, 1985]

§ 270.71 Operation during interim status.

(a) During the interim status period the facility shall not:

(1) Treat, store, or dispose of hazardous waste not specified in Part A of the permit application;

(2) Employ processes not specified in Part A of the permit application; or

(3) Exceed the design capacities specified in Part A of the permit application.

(b) Interim status standards. During interim status, owners or operators shall comply with the interim status standards at 40 CFR part 265.

§ 270.72 Changes during interim status.

(a) Except as provided in paragraph (b), the owner or operator of an interim status facility may make the following changes at the facility:

(1) Treatment, storage, or disposal of new hazardous wastes not previously identified in Part A of the permit application (and, in the case of newly listed or identified wastes, addition of the units being used to treat, store, or dispose of the hazardous wastes on the effective date of the listing or identification) if the owner or operator submits a revised Part A permit application prior to such treatment, storage, or disposal;

(2) Increases in the design capacity of processes used at the facility if the owner or operator submits a revised Part A permit application prior to such a change (along with a justification explaining the need for the change) and the Director approves the changes because:

(i) There is a lack of available treatment, storage, or disposal capacity at other hazardous waste management facilities, or

(ii) The change is necessary to comply with a Federal, State, or local requirement.

(3) Changes in the processes for the treatment, storage, or disposal of hazardous waste or addition of processes if the owner or operator submits a revised Part A permit application prior to such change (along with a justification explaining the need for the change) and the Director approves the change because:

(i) The change is necessary to prevent a threat to human health and the environment because of an emergency situation, or

(ii) The change is necessary to comply with a Federal, State, or local requirement.

(4) Changes in the ownership or operational control of a facility if the new owner or operator submits a revised Part A permit application no later than 90 days prior to the scheduled change. When a transfer of operational control of a facility occurs, the old owner or operator shall comply with the requirements of 40 CFR part 265, subpart H (Financial Requirements), until the new owner or operator has demonstrated to the Director that he is complying with the requirements of that subpart. The new owner or operator must demonstrate compliance with subpart H requirements within six months of the date of the change in ownership or operational control of the facility. Upon demonstration to the Director by the new owner or operator of compliance with subpart H, the Director shall notify the old owner or operator in writing that he no longer needs to comply with subpart H as of the date of demonstration. All other interim status duties are transferred effective immediately upon the date of the change in ownership or operational control of the facility.

(5) Changes made in accordance with an interim status corrective action order issued by EPA under section 3008(h) or other Federal authority, by an authorized State under comparable State authority, or by a court in a judicial action brought by EPA or by an authorized State. Changes under this paragraph are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

(6) Addition of newly regulated units for the treatment, storage, or disposal of hazardous waste if the owner or operator submits a revised part A permit application on or before the date on which the unit becomes subject to the new requirements.

(b) Except as specifically allowed under this paragraph, changes listed under paragraph (a) of this section may not be made if they amount to reconstruction of the hazardous waste management facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds 50 percent of the capital cost of a comparable entirely new hazardous waste management facility. If all other requirements are met, the following changes may be made even if they amount to a reconstruction:

(1) Changes made solely for the purposes of complying with the requirements of 40 CFR 265.193 for tanks and ancillary equipment.

(2) If necessary to comply with Federal, State, or local requirements, changes to an existing unit, changes solely involving tanks or containers, or addition of replacement surface inpoundments that satisfy the standards of section 3004(o).

(3) Changes that are necessary to allow owners or operators to continue handling newly listed or identified hazardous wastes that have been treated, stored, or disposed of at the facility prior to the effective date of the rule establishing the new listing or identification.

(4) Changes during closure of a facility or of a unit within a facility made in accordance with an approved closure plan.

(5) Changes necessary to comply with an interim status corrective action order issued by EPA under section 3008(h) or other Federal authority, by an authorized State under comparable State authority, or by a court in a judicial proceeding brought by EPA or an authorized State, provided that such changes are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

(6) Changes to treat or store, in tanks or containers, hazardous wastes subject to land disposal restrictions imposed by part 268 or RCRA section 3004, provided that such changes are made solely for the purpose of complying with part 268 or RCRA section 3004.

(7) Addition of newly regulated units under paragraph (a)(6) of this section.

[54 FR 9608, Mar. 7, 1989, as amended at 56 FR 7239, Feb. 21, 1991]

§ 270.73 Termination of interim status.

Interim status terminates when:

(a) Final administrative disposition of a permit application is made; or

(b) Interim status is terminated as provided in § 270.10(e)(5).

(c) For owners or operators of each land disposal facility which has been granted interim status prior to November 8, 1984, on November 8, 1985, unless:

(1) The owner or operator submits a Part B application for a permit for such facility prior to that date; and

(2) The owner or operator certifies that such facility is in compliance with all applicable ground-water monitoring and financial responsibility requirements.

(d) For owners or operators of each land disposal facility which is in existence on the effective date of statutory or regulatory amendments under the Act that render the facility subject to the requirement to have a RCRA permit and which is granted interim status, twelve months after the date on which the facility first becomes subject to such permit requirement unless the owner or operator of such facility:

(1) Submits a Part B application for a RCRA permit for such facility before the date 12 months after the date on which the facility first becomes subject to such permit requirement; and

(2) Certifies that such facility is in compliance with all applicable ground water monitoring and financial responsibility requirements.

(e) For owners or operators of any land disposal unit that is granted authority to operate under § 270.72(a) (1), (2) or (3), on the date 12 months after the effective date of such requirement, unless the owner or operator certifies that such unit is in compliance with all applicable ground-water monitoring and financial responsibility requirements.

(f) For owners and operators of each incinerator facility which has achieved interim status prior to November 8, 1984, interim status terminates on November 8, 1989, unless the owner or operator of the facility submits a part B application for a RCRA permit for an incinerator facility by November 8, 1986.

(g) For owners or operators of any facility (other than a land disposal or an incinerator facility) which has achieved interim status prior to November 8, 1984, interim status terminates on November 8, 1992, unless the owner or operator of the facility submits a part B application for a RCRA permit for the facility by November 8, 1988.

(Approved by the Office of Management and Budget under control number 2050-0037)

[48 FR 14228, Apr. 1, 1983, as amended at 50 FR 28753, July 15, 1985; 54 FR 9609, Mar. 7, 1989; 56 FR 7239, Feb. 21, 1991; 56 FR 32692, July 17, 1991]

PART 124 -- PROCEDURES FOR DECISIONMAKING

Part 124

Subpart A -- General Program Requirements

Sec.

Authority: Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.; Safe Drinking Water Act, 42 U.S.C. 300(f) et seq.; Clean Water Act, 33 U.S.C. 1251 et seq.; and Clean Air Act, 42 U.S.C. 1857 et seq.

Source: 48 FR 14264, Apr. 1, 1983, unless otherwise noted.

Subpart A -- General Program Requirements

§ 124.1 Purpose and scope.

(a) This part contains EPA procedures for issuing, modifying, revoking and reissuing, or terminating all RCRA, UIC, PSD and NPDES ``permits'' (including ``sludge-only'' permits issued pursuant to § 122.1(b)(3)), other than RCRA and UIC ``emergency permits'' (see §§ 270.61 and 144.34) and RCRA ``permits by rule'' (§ 270.60). The latter kinds of permits are governed by part 270. RCRA interim status and UIC authorization by rule are not ``permits'' and are covered by specific provisions in parts 144, subpart C, and 270. This part also does not apply to permits issued, modified, revoked and reissued or terminated by the Corps of Engineers. Those procedures are specified in 33 CFR parts 320-327. The procedures of this part also apply to denial of a permit for the active life of a RCRA hazardous waste management facility or unit under § 270.29.

(b) part 124 is organized into six subparts. Subpart A contains general procedural requirements applicable to all permit programs covered by these regulations. Subparts B through F supplement these general provisions with requirements that apply to only one or more of the programs. Subpart A describes the steps EPA will follow in receiving permit applications, preparing draft permits, issuing public notice, inviting public comment and holding public hearings on draft permits. Subpart A also covers assembling an administrative record, responding to comments, issuing a final permit decision, and allowing for administrative appeal of the final permit decision. Subpart B is reserved for specific procedural requirements for RCRA permits. There are none of these at present but they may be added in the future. Subpart C contains definitions and specific procedural requirements for PSD permits. Subpart D applies to NPDES permits until an evidentiary hearing begins, when subpart E procedures take over for EPA-issued NPDES permits and EPA-terminated RCRA permits.

Subpart F, which is based on the ``initial licensing'' provisions of the Administrative Procedure Act (APA), can be used instead of subparts A through E in appropriate cases.

(c) Part 124 offers an opportunity for three kinds of hearings: A public hearing under subpart A, an evidentiary hearing under subpart E, and a panel hearing under subpart F. This chart describes when these hearings are available for each of the five permit programs.

Hearings Available Under This Part

Programs	Subpart		
	(A) Public hearing	(E) Evidentiary hearing	(F) Panel hearing
RCRA	On draft permit, at Director's discretion or on request ($ 124.12)	(1) Permit termination (RCRA section 3008)	(1) At RA's discretion in lieu of public hearing ($$ 124.12 and 124.111(a)(3)).
		(2) With NPDES evidentiary hearing ($ 124.74(b)(2))	(2) When consolidated with NPDES draft permit processed under Subpart F ($ 124.111(a)(1)(i)).
UIC	On draft permit, at Director's discretion or on request ($ 124.12)	With NPDES evidentiary hearing ($ 124.74(b)(2))	(1) At RA's discretion in lieu of public hearing ($$ 124.12 and 124.111(a)(3)). (2) When consolidated with NPDES draft permit processed under Subpart F ($ 124.111(a)(1)(i)).
PSD	On draft permit, at Director's discretion or on request ($ 124.12)	Not available ($ 124.71(c))	When consolidated with NPDES draft permit processed under Subpart F if RA determines that CAA one year deadline will not be violated.
NPDES (other than general permit)	On draft permit, at Director's discretion or on request ($ 124.12)	(1) On request to challenge any permit condition or variance ($ 124.74) (2) At RA's discretion for any 301(h) request ($ 124.64(b))	(1) At RA's discretion when first decision on permit or variance request ($ 124.111). (2) At RA's discretion when request for evidentiary hearing is granted under $ 124.75(a)(2) ($$ 124.74(c)(8) and 124.111(a)(2)). (3) At RA's discretion for any 301(h) request ($ 124.64(b)).
NPDES (general permit)	On draft permit, at Director's discretion or on request ($ 124.12)	Not available ($ 124.71(a))	At RA's discretion in lieu of public hearing ($ 124.111(a)(3)).
404	On draft permit or on application when no draft permit, at Director's discretion or on request ($ 124.12)	Not available ($ 124.71)	Not available ($ 124.111).

(d) This part is designed to allow permits for a given facility under two or more of the listed programs to be processed separately or together at the choice of the Regional Administrator. This allows EPA to combine the processing of permits only when appropriate, and not necessarily in all cases. The Regional Administrator may consolidate permit processing when the permit applications are submitted, when draft permits are prepared, or when final permit decisions are issued. This part also allows consolidated permits to be subject to a single public hearing under $ 124.12, a single evidentiary hearing under $ 124.75, or a single non-adversary panel hearing under $ 124.120. Permit applicants may recommend whether or not their applications should be consolidated in any given case.

(e) Certain procedural requirements set forth in part 124 must be adopted by States in order to gain EPA approval to operate RCRA, UIC, NPDES, and 404 permit programs.These requirements are listed in $$ 123.25 (NPDES), 145.11 (UIC), 233,26 (404), and 271.14 (RCRA) and signaled by the following words at the end of the

appropriate part 124 section or paragraph heading: (applicable to State programs see §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA)). Part 124 does not apply to PSD permits issued by an approved State.

(f) To coordinate decisionmaking when different permits will be issued by EPA and approved State programs, this part allows applications to be jointly processed, joint comment periods and hearings to be held, and final permits to be issued on a cooperative basis whenever EPA and a State agree to take such steps in general or in individual cases. These joint processing agreements may be provided in the Memorandum of Agreement developed under §§ 123.24 (NPDES), 145.24 (UIC), 233.24 (404), and 271.8 (RCRA).

[48 FR 14264, Apr. 1, 1983, as amended at 54 FR 9607, Mar. 7, 1989; 54 FR 18785, May 2, 1989]

§ 124.2 Definitions.

(a) In addition to the definitions given in §§ 122.2 and 123.2 (NPDES), 501.2 (sludge management), 144.3 and 145.2 (UIC), 233.3 (404), and 270.2 and 271.2 (RCRA), the definitions below apply to this part, except for PSD permits which are governed by the definitions in § 124.41. Terms not defined in this section have the meaning given by the appropriate Act.

``Administrator'' means the Administrator of the U.S. Environmental Protection Agency, or an authorized representative.

``Applicable standards and limitations'' means all State, interstate, and federal standards and limitations to which a ``discharge,'' a ``sludge use or disposal practice'' or a related activity is subject under the CWA, including ``standards for sewage sludge use or disposal,'' ``effluent limitations,'' water quality standards, standards of performance, toxic effluent standards or prohibitions, ``best management practices,'' and pretreatment standards under sections 301, 302, 303, 304, 306, 307, 308, 403, and 405 of CWA.

``Application'' means the EPA standard national forms for applying for a permit, including any additions, revisions or modifications to the forms; or forms approved by EPA for use in ``approved States,'' including any approved modifications or revisions. For RCRA, application also includes the information required by the Director under §§ 270.14 through 270.29 [contents of Part B of the RCRA application].

``Appropriate Act and regulations'' means the Clean Water Act (CWA); the Solid Waste Disposal Act, as amended by the Resource Conservation Recovery Act (RCRA); or Safe Drinking Water Act (SDWA), whichever is applicable; and applicable regulations promulgated under those statutes. In the case of an ``approved State program'' appropriate Act and regulations includes program requirements.

``Consultation with the Regional Administrator (§ 124.62(a)(2))'' means review by the Regional Administrator following evaluation by a panel of the technical merits of all 301(k) applications approved by the Director. The panel (to be appointed by the Director of the Office of Water Enforcement and Permits) will consist of Headquarters, Regional, and State personnel familiar with the industrial category in question.

``CWA'' means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act of Federal Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended by Pub. L. 95-217 and Pub. L. 95-576; 33 U.S.C. 1251 et seq.

``Director'' means the Regional Administrator, the State director or the Tribal director as the context requires, or an authorized representative. When there is no approved State or Tribal program, and there is an EPA administered program, ``Director'' means the Regional Administrator. When there is an approved State or Tribal program, ``Director'' normally means the State or Tribal director. In some circumstances, however, EPA retains the authority to take certain actions even when there is an approved State or Tribal program. (For example, when EPA has issued an NPDES permit prior to the approval of a State program, EPA may retain jurisdiction over that permit after program approval; see § 123.1) In such cases, the term ``Director'' means the Regional Administrator and not the State or Tribal director.

``Draft permit'' means a document prepared under § 124.6 indicating the Director's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a ``permit.'' A notice of intent to terminate a permit and a notice of intent to deny a permit as discussed in § 124.5, are types of ``draft permits.'' A denial of a request for modification, revocation and reissuance or termination, as discussed in § 124.5, is not a ``draft permit.'' A ``proposal permit'' is not a ``draft permit.''

``EPA (``EPA'')'' means the United States ``Environmental Protection Agency.''

``Facility or activity'' means any ``HWM facility,'' UIC ``injection well,'' NPDES ``point source'' or ``treatment works treating domestic sewage'' or State 404 dredge or fill activity, or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the RCRA, UIC, NPDES, or 404 programs.

``General permit (NPDES and 404)'' means an NPDES or 404 ``permit'' authorizing a category of discharges or activities under the CWA within a geographical area. For NPDES, a general permit means a permit issued under § 122.28. For 404, a general permit means a permit issued under § 233.37.

``Indian Tribe'' means (except in the case of RCRA) any Indian Tribe having a Federally recognized governing body carrying out substantial governmental duties and powers over a defined area.

``Interstate agency'' means an agency of two or more States established by or under an agreement or compact approved by the Congress, or any other agency of two or more States having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator under the ``appropriate Act and regulations.''

``Major facility'' means any RCRA, UIC, NPDES, or 404 ``facility or activity'' classified as such by the Regional Administrator, or, in the case of ``approved State programs,'' the Regional Administrator in conjunction with the State Director.

``NPDES'' means National Pollutant Discharge Elimination System.

``Owner or operator'' means owner or operator of any ``facility or activity'' subject to regulation under the RCRA, UIC, NPDES, or 404 programs.

``Permit'' means an authorization, license, or equivalent control document issued by EPA or an ``approved State'' to implement the requirements of this part and parts 122, 123, 144, 145, 233, 270, and 271. ``Permit'' includes RCRA ``permit by rule'' (§ 270.60), UIC area permit (§ 144.33), NPDES or 404 ``general permit'' (§§ 270.61, 144.34, and 233.38). Permit does not include RCRA interim status (§ 270.70), UIC authorization by rule (§ 144.21), or any permit which has not yet been the subject of final agency action, such as a ``draft permit'' or a ``proposed permit.''

``Person'' means an individual, association, partnership, corporation, municipality, State, Federal, or Tribal agency, or an agency or employee thereof.

``RCRA'' means the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580, as amended by Pub. L. 95-609, 42 U.S.C. 6901 et seq).

``Regional Administrator'' means the Regional Administrator of the appropriate Regional Office of the Environmental Protection Agency or the authorized representative of the Regional Administrator.

``Schedule of compliance'' means a schedule of remedial measures included in a ``permit,'' including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the ``appropriate Act and regulations.''

``SDWA'' means the Safe Drinking Water Act (Pub. L. 95-523, as amended by Pub. L. 95-1900; 42 U.S.C. 300f et seq).

``Section 404 program or State 404 program or 404'' means an ``approved State program'' to regulate the ``discharge of dredged material'' and the ``discharge of fill material'' under section 404 of the Clean Water Act in ``State regulated waters.''

``Site'' means the land or water area where any ``facility or activity'' is physically located or conducted, including adjacent land used in connection with the facility or activity.

``State'' means one of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands (except in the case of RCRA), the Commonwealth of the Northern Mariana Islands, or an Indian Tribe treated as a State (except in the case of RCRA). ``State Director'' means the chief administrative officer of any State, interstate, or Tribal agency operating an approved program, or the delegated representative of the State director. If the responsibility is divided among two or more States, interstate, or Tribal agencies, ``State Director'' means the chief administrative officer of the State, interstate, or Tribal agency authorized to perform the particular procedure or function to which reference is made.

``State Director'' means the chief administrative officer of any State or interstate agency operating an ``approved program,'' or the delegated representative of the state Director. If responsibility is divided among two or more State or interstate agencies, ``State Director'' means the chief administrative officer of the State or interstate agency authorized to perform the particular procedure or function to which reference is made.

``UIC'' means the Underground Injection Control program under Part C of the Safe Drinking Water Act, including an ``approved program.''

``Variance (NPDES)'' means any mechanism or provision under section 301 or 316 of CWA or under 40 CFR part 125, or in the applicable ``effluent limitations guidelines'' which allows modification to or waiver of the generally applicable effluent limitation requirements or time deadlines of CWA. This includes provisions which allow the establishment of alternative limitations based on fundamentally different factors or on sections 301(c), 301(g), 301(h), 301(i), or 316(a) of CWA.

(b) For the purposes of part 124, the term ``Director'' means the State Director or Regional Administrator and is used when the accompanying provision is required of EPA-administered programs and of State programs under §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA). The term ``Regional Administrator'' is used when the accompanying provision applies exclusively to EPA-issued permits and is not applicable to State programs under these sections. While States are not required to implement these latter provisions, they are not precluded from doing so, notwithstanding use of the term ``Regional Administrator.''

(c) The term ``formal hearing'' means any evidentiary hearing under subpart E or any panel hearing under subpart F but does not mean a public hearing conducted under § 124.12.

[48 FR 14264, Apr. 1, 1983; 48 FR 30115, June 30, 1983, as amended at 49 FR 25981, June 25, 1984; 53 FR 37410, Sept. 26, 1988; 54 FR 18785, May 2, 1989]

§ 124.3 Application for a permit.

(a) Applicable to State programs, see §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA). (1) Any person who requires a permit under the RCRA, UIC, NPDES, or PSD programs shall complete, sign, and submit to the Director an application for each permit required under §§ 270.1 (RCRA), 144.1 (UIC), 40 CFR 52.21 (PSD), and 122.1 (NPDES). Applications are not required for RCRA permits by rule (§ 270.60), underground injections authorized by rules (§§ 144.21 through 144.26), NPDES general permits (§ 122.28) and 404 general permits (§ 233.37).

(2) The Director shall not begin the processing of a permit until the applicant has fully complied with the application requirements for that permit. See §§ 270.10, 270.13 (RCRA), 144.31 (UIC), 40 CFR 52.21 (PSD), and 122.21 (NPDES).

(3) Permit applications (except for PSD permits) must comply with the signature and certification requirements of §§ 122.22 (NPDES), 144.32 (UIC), 233.6 (404), and 270.11 (RCRA).

(b) [Reserved]

(c) The Regional Administrator shall review for completeness every application for an EPA-issued permit. Each application for an EPA-issued permit submitted by a new HWM facility, a new UIC injection well, a major PSD stationary source or major PSD modification, or an NPDES new source or NPDES new discharger should be reviewed for completeness by the Regional Administrator within 30 days of its receipt. Each application for an EPA-issued permit submitted by an existing HWM facility (both Parts A and B of the application), existing injection well or existing NPDES source or sludge-only facility should be reviewed for completeness within 60 days of receipt. Upon completing the review, the Regional Administrator shall notify the applicant in writing whether the application is complete. If the application is incomplete, the Regional Administrator shall list the information necessary to make the application complete. When the application is for an existing HWM facility, an existing UIC injection well or an existing NPDES source or ``sludge-only facility'' the Regional Administrator shall specify in the notice of deficiency a date for submitting the necessary information. The Regional Administrator shall notify the applicant that the application is complete upon receiving this information. After the application is completed, the Regional Administrator may request additional information from an applicant but only when necessary to clarify, modify, or supplement previously submitted material. Requests for such additional information will not render an application incomplete.

(d) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions may be taken under the applicable statutory provision including RCRA section 3008, SDWA sections 1423 and 1424, CAA section 167, and CWA sections 308, 309, 402(h), and 402(k).

(e) If the Regional Administrator decides that a site visit is necessary for any reason in conjunction with the processing of an application, he or she shall notify the applicant and a date shall be scheduled.

(f) The effective date of an application is the date on which the Regional Administrator notifies the applicant that the application is complete as provided in paragraph (c) of this section.

(g) For each application from a major new HWM facility, major new UIC injection well, major NPDES new source, major NPDES new discharger, or a permit to be issued under provisions of § 122.28(c), the Regional Administrator shall, no later than the effective date of the application, prepare and mail to the applicant a project decision schedule. (This paragraph does not apply to PSD permits.) The schedule shall specify target dates by which the Regional Administrator intends to:

(1) Prepare a draft permit;

(2) Give public notice;

(3) Complete the public comment period, including any public hearing;

(4) Issue a final permit; and

(5) In the case of an NPDES permit, complete any formal proceedings under subpart E or F.

(Clean Water Act (33 U.S.C. 1251 et seq.), Safe Drinking Water Act (42 U.S.C. 300f et seq.), Clean Air Act (42 U.S.C. 7401 et seq.), Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.))

[48 FR 14264, Apr. 1, 1983, as amended at 48 FR 39620, Sept. 1, 1983; 54 FR 18785, May 2, 1989]

§ 124.4 Consolidation of permit processing.

(a)(1) Whenever a facility or activity requires a permit under more than one statute covered by these regulations, processing of two or more applications for those permits may be consolidated. The first step in consolidation is to prepare each draft permit at the same time.

(2) Whenever draft permits are prepared at the same time, the statements of basis (required under § 124.7 for EPA-issued permits only) or fact sheets (§ 124.8), administrative records (required under § 124.9 for EPA-issued permits only), public comment periods (§ 124.10), and any public hearings (§ 124.12) on those permits should also be consolidated. The final permits may be issued together. They need not be issued together if in the judgment of the Regional Administrator or State Director(s), joint processing would result in unreasonable delay in the issuance of one or more permits.

(b) Whenever an existing facility or activity requires additional permits under one or more of the statutes covered by these regulations, the permitting authority may coordinate the expiration date(s) of the new permit(s) with the expiration date(s) of the existing permit(s) so that all permits expire simultaneously. Processing of the subsequent applications for renewal permits may then be consolidated.

(c) Processing of permit applications under paragraph (a) or (b) of this section may be consolidated as follows:

(1) The Director may consolidate permit processing at his or her discretion whenever a facility or activity requires all permits either from EPA or from an approved State.

(2) The Regional Administrator and the State Director(s) may agree to consolidate draft permits whenever a facility or activity requires permits from both EPA and an approved State.

(3) Permit applicants may recommend whether or not the processing of their applications should be consolidated.

(d) Whenever permit processing is consolidated and the Regional Administrator invokes the ``initial licensing'' provisions of subpart F for an NPDES, RCRA, or UIC permit, any permit(s) with which that NPDES, RCRA or UIC permit was consolidated shall likewise be processed under subpart F.

(e) Except with the written consent of the permit applicant, the Regional Administrator shall not consolidate processing a PSD permit with any other permit under paragraph (a) or (b) of this section or process a PSD permit under subpart F as provided in paragraph (d) of this section when to do so would delay issuance of the PSD permit more than one year from the effective date of the application under § 124.3(f).

§ 124.5 Modification, revocation and reissuance, or termination of permits.

(a) (Applicable to State programs, see §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA)). Permits (other than PSD permits) may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the Director's initiative. However, permits may only be modified, revoked and reissued, or terminated for the reasons specified in § 122.62 or § 122.64

(NPDES), 144.39 or 144.40 (UIC), 233.14 or 233.15 (404), and 270.41 or 270.43 (RCRA). All requests shall be in writing and shall contain facts or reasons supporting the request.

(b) If the Director decides the request is not justified, he or she shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearings. Denials by the Regional Administrator may be informally appealed to the Administrator by a letter briefly setting forth the relevant facts. The Administrator may direct the Regional Administrator to begin modification, revocation and reissuance, or termination proceedings under paragraph (c) of this section. The appeal shall be considered denied if the Administrator takes no action on the letter within 60 days after receiving it. This informal appeal is, under 5 U.S.C. 704, a prerequisite to seeking judicial review of EPA action in denying a request for modification, revocation and reissuance, or termination.

(c) (Applicable to State programs, see §§ 123.25 (NPDES, 145.11 (UIC), 233.26 (404), and 271.14 (RCRA)). (1) If the Director tentatively decides to modify or revoke and reissue a permit under §§ 122.62 (NPDES), 144.39 (UIC), 233.14 (404), or 270.41 or 270.42(c) (RCRA), he or she shall prepare a draft permit under § 124.6 incorporating the proposed changes. The Director may request additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of revoked and reissued permits, the Director shall require the submission of a new application.

(2) In a permit modification under this section, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

(3) ``Minor modifications'' as defined in §§ 122.63 (NPDES), 144.41 (UIC), and 233.16 (404), and ``Classes 1 and 2 modifications'' as defined in § 270.42 (a) and (b) (RCRA) are not subject to the requirements of this section.

(d) (Applicable to State programs, see §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA)). If the Director tentatively decides to terminate a permit under §§ 122.64 (NDPES), 144.40 (UIC), 233.15 (404), or 270.43 (RCRA), he or she shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under § 124.6. In the case of EPA-issued permits, a notice of intent to terminate shall not be issued if the Regional Administrator and the permittee agree to termination in the course of transferring permit responsibility to an approved State under §§ 123.24(b)(1) (NPDES), 145.24(b)(1) (UIC), 271.8(b)(6) (RCRA), or 501.14(b)(1) (Sludge).

(e) When EPA is the permitting authority, all draft permits (including notices of intent to terminate) prepared under this section shall be based on the administrative record as defined in § 124.9.

(f) (Applicable to State programs, see § 233.26 (404)). Any request by the permittee for modification to an existing 404 permit (other than a request for a minor modification as defined in § 233.16 (404)) shall be treated as a permit application and shall be processed in accordance with all requirements of § 124.3.

(g)(1).(Reserved for PSD Modification Provisions).

(2) PSD permits may be terminated only by rescission under § 52.21(w) or by automatic expiration under § 52.21(r). Applications for rescission shall be processed under § 52.21(w) and are not subject to this part.

Editorial Note: Information collection requirements in this § 124.5 have not been approved by the Office of Management and Budget and are not effective, pending OMB approval.

[48 FR 14264, Apr. 1, 1983, as amended at 53 FR 37934, Sept. 28, 1988; 54 FR 18785, May 2, 1989]

§ 124.6 Draft permits.

(a) (Applicable to State programs, see §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).) Once an application is complete, the Director shall tentatively decide whether to prepare a draft permit (except in the case of State section 404 permits for which no draft permit is required under § 233.39) or to deny the application.

(b) If the Director tentatively decides to deny the permit application, he or she shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under this section. See § 124.6(e). If the Director's final decision (§ 124.15) is that the tentative decision to deny the permit application was incorrect, he or she

shall withdraw the notice of intent to deny and proceed to prepare a draft permit under paragraph (d) of this section.

(c) (Applicable to State programs, see §§ 123.25 (NPDES) and 233.26 (404).) If the Director tentatively decides to issue an NPDES or 404 general permit, he or she shall prepare a draft general permit under paragraph (d) of this section.

(d) (Applicable to State programs, see §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).) If the Director decides to prepare a draft permit, he or she shall prepare a draft permit that contains the following information:

(1) All conditions under §§ 122.41 and 122.43 (NPDES), 144.51 and 144.42 (UIC, 233.7 and 233.8 (404, or 270.30 and 270.32 (RCRA) (except for PSD permits)));

(2) All compliance schedules under §§ 122.47 (NPDES), 144.53 (UIC), 233.10 (404), or 270.33 (RCRA) (except for PSD permits);

(3) All monitoring requirements under §§ 122.48 (NPDES), 144.54 (UIC), 233.11 (404), or 270.31 (RCRA) (except for PSD permits); and

(4) For:

(i) RCRA permits, standards for treatment, storage, and/or disposal and other permit conditions under § 270.30;

(ii) UIC permits, permit conditions under § 144.52;

(iii) PSD permits, permit conditions under 40 CFR § 52.21;

(iv) 404 permits, permit conditions under §§ 233.7 and 233.8;

(v) NPDES permits, effluent limitations, standards, prohibitions, standards for sewage sludge use or disposal, and conditions under §§ 122.41, 122.42, and 122.44, including when applicable any conditions certified by a State agency under § 124.55, and all variances that are to be included under § 124.63.

(e) (Applicable to State programs, see §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).) All draft permits prepared by EPA under this section shall be accompanied by a statement of basis (§ 124.7) or fact sheet (§ 124.8), and shall be based on the administrative record (§ 124.9), publicly noticed (§ 124.10) and made available for public comment (§ 124.11). The Regional Administrator shall give notice of opportunity for a public hearing (§ 124.12), issue a final decision (§ 124.15) and respond to comments (§ 124.17). For RCRA, UIC or PSD permits, an appeal may be taken under § 124.19 and, for NPDES permits, an appeal may be taken under § 124.74. Draft permits prepared by a State shall be accompanied by a fact sheet if required under § 124.8.

[48 FR 14264, Apr. 1, 1983, as amended at 54 FR 18785, May 2, 1989]

§ 124.7 Statement of basis.

EPA shall prepare a statement of basis for every draft permit for which a fact sheet under § 124.8 is not prepared. The statement of basis shall briefly describe the derivation of the conditions of the draft permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons supporting the tentative decision. The statement of basis shall be sent to the applicant and, on request, to any other person.

§ 124.8 Fact sheet.

(Applicable to State programs, see §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).)

(a) A fact sheet shall be prepared for every draft permit for a major HWM, UIC, 404, or NPDES facility or activity, for every Class I sludge management facility, for every 404 and NPDES general permit (§§ 237.37 and 122.28), for every NPDES draft permit that incorporates a variance or requires an explanation under § 124.56(b), for every draft permit that includes a sewage sludge land application plan under 40 CFR 501.15(a)(2)(ix), and for every draft permit which the Director finds is the subject of wide-spread public interest or raises major issues. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit. The Director shall send this fact sheet to the applicant and, on request, to any other person.

(b) The fact sheet shall include, when applicable:

(1) A brief description of the type of facility or activity which is the subject of the draft permit;

(2) The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged.

(3) For a PSD permit, the degree of increment consumption expected to result from operation of the facility or activity.

(4) A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record required by § 124.9 (for EPA-issued permits);

(5) Reasons why any requested variances or alternatives to required standards do or do not appear justified;

(6) A description of the procedures for reaching a final decision on the draft permit including:

(i) The beginning and ending dates of the comment period under § 124.10 and the address where comments will be received;

(ii) Procedures for requesting a hearing and the nature of that hearing; and

(iii) Any other procedures by which the public may participate in the final decision.

(7) Name and telephone number of a person to contact for additional information.

(8) For NPDES permits, provisions satisfying the requirements of § 124.56.

[48 FR 14264, Apr. 1, 1983, as amended at 54 FR 18786, May 2, 1989]

§ 124.9 Administrative record for draft permits when EPA is the permitting authority.

(a) The provisions of a draft permit prepared by EPA under § 124.6 shall be based on the administrative record defined in this section.

(b) For preparing a draft permit under § 124.6, the record shall consist of:

(1) The application, if required, and any supporting data furnished by the applicant;

(2) The draft permit or notice of intent to deny the application or to terminate the permit;

(3) The statement of basis (§ 124.7) or fact sheet (§ 124.8);

(4) All documents cited in the statement of basis or fact sheet; and

(5) Other documents contained in the supporting file for the draft permit.

(6) For NPDES new source draft permits only, any environmental assessment, environmental impact statement (EIS), finding of no significant impact, or environmental information document and any supplement to an EIS that may have been prepared. NPDES permits other than permits to new sources as well as all RCRA, UIC and PSD permits are not subject to the environmental impact statement provisions of section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4321.

(c) Material readily available at the issuing Regional Office or published material that is generally available, and that is included in the administrative record under paragraphs (b) and (c) of this section, need not be physically included with the rest of the record as long as it is specifically referred to in the statement of basis or the fact sheet.

(d) This section applies to all draft permits when public notice was given after the effective date of these regulations.

§ 124.10 Public notice of permit actions and public comment period.

(a) Scope. (1) The Director shall give public notice that the following actions have occurred:

(i) A permit application has been tentatively denied under § 124.6(b);

(ii) (Applicable to State programs, see §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA)). A draft permit has been prepared under § 124.6(d);

(iii) (Applicable to State programs, see §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404) and 271.14 (RCRA)). A hearing has been scheduled under § 124.12, subpart E or subpart F;

(iv) An appeal has been granted under § 124.19(c);

(v) (Applicable to State programs, see § 233.26 (404)). A State section 404 application has been received in cases when no draft permit will be prepared (see § 233.39); or

(vi) An NPDES new source determination has been made under § 122.29.

(2) No public notice is required when a request for permit modification, revocation and reissuance, or termination is denied under § 124.5(b). Written notice of that denial shall be given to the requester and to the permittee.

(3) Public notices may describe more than one permit or permit actions.

(b) Timing (applicable to State programs, see §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404, and 271.14 (RCRA)). (1) Public notice of the preparation of a draft permit (including a notice of intent to deny a permit application) required under paragraph (a) of this section shall allow at least 30 days for public comment. For RCRA permits only, public notice shall allow at least 45 days for public comment. For EPA-issued permits, if the Regional Administrator determines under 40 CFR part 6, subpart F that an Environmental Impact Statement (EIS) shall be prepared for an NPDES new source, public notice of the draft permit shall not be given until after a draft EIS is issued.

(2) Public notice of a public hearing shall be given at least 30 days before the hearing. (Public notice of the hearing may be given at the same time as public notice of the draft permit and the two notices may be combined.)

(c) Methods (applicable to State programs, see §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA)). Public notice of activities described in paragraph (a)(1) of this section shall be given by the following methods:

(1) By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this paragraph may waive his or her rights to receive notice for any classes and categories of permits);

(i) The applicant (except for NPDES and 404 general permits when there is no applicant);

(ii) Any other agency which the Director knows has issued or is required to issue a RCRA, UIC, PSD (or other permit under the Clean Air Act), NPDES, 404, sludge management permit, or ocean dumping permit under the Marine Research Protection and Sanctuaries Act for the same facility or activity (including EPA when the draft permit is prepared by the State);

(iii) Federal and State agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the Advisory Council on Historic Preservation, State Historic Preservation Officers, including any affected States (Indian Tribes). (For purposes of this paragraph, and in the context of the Underground Injection Control Program only, the term State includes Indian Tribes treated as States.)

(iv) For NPDES and 404 permits only, any State agency responsible for plan development under CWA section 208(b)(2), 208(b)(4) or 303(e) and the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service;

(v) For NPDES permits only, any user identified in the permit application of a privately owned treatment works;

(vi) For 404 permits only, any reasonably ascertainable owner of property adjacent to the regulated facility or activity and the Regional Director of the Federal Aviation Administration if the discharge involves the construction of structures which may affect aircraft operations or for purposes associated with seaplane operations;

(vii) For PSD permits only, affected State and local air pollution control agencies, the chief executives of the city and county where the major stationary source or major modification would be located, any comprehensive regional land use planning agency and any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the regulated activity;

(viii) For Class I injection well UIC permits only, state and local oil and gas regulatory agencies and state agencies regulating mineral exploration and recovery;

(ix) Persons on a mailing list developed by:

(A) Including those who request in writing to be on the list;

(B) Soliciting persons for ``area lists'' from participants in past permit proceedings in that area; and

(C) Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as Regional and State funded newsletters, environmental bulletins, or State law journals. (The Director may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Director may delete from the list the name of any person who fails to respond to such a request.)

(x)(A) To any unit of local government having jurisdiction over the area where the facility is proposed to be located; and (B) to each State agency having any authority under State law with respect to the construction or operation of such facility.

(2)(i) For major permits, NPDES and 404 general permits, and permits that include sewage sludge land application plans under 40 CFR 501.15(a)(2)(ix), publication of a notice in a daily or weekly newspaper within the area affected by the facility or activity; and for EPA-issued NPDES general permits, in the Federal Register;

Note: The Director is encouraged to provide as much notice as possible of the NPDES or Section 404 draft general permit to the facilities or activities to be covered by the general permit.

(ii) For all RCRA permits, publication of a notice in a daily or weekly major local newspaper of general circulation and broadcast over local radio stations.

(3) When the program is being administered by an approved State, in a manner constituting legal notice to the public under State law; and

(4) Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(d) Contents (applicable to State programs, see §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA)) -- (1) All public notices. All public notices issued under this part shall contain the following minimum information:

(i) Name and address of the office processing the permit action for which notice is being given;

(ii) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit, except in the case of NPDES and 404 draft general permits under §§ 122.28 and 233.37;

(iii) a brief description of the business conducted at the facility or activity described in the permit application or the draft permit, for NPDES or 404 general permits when there is no application.

(iv) Name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit or draft general permit, as the case may be, statement of basis or fact sheet, and the application; and

(v) A brief description of the comment procedures required by §§ 124.11 and 124.12 and the time and place of any hearing that will be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision.

(vi) For EPA-issued permits, the location of the administrative record required by § 124.9, the times at which the record will be open for public inspection, and a statement that all data submitted by the applicant is available as part of the administrative record.

(vii) For NPDES permits only (including those for ``sludge-only facilities''), a general description of the location of each existing or proposed discharge point and the name of the receiving water and the sludge use and disposal practice(s) and the location of each sludge treatment works treating domestic sewage and use

or disposal sites known at the time of permit application. For draft general permits, this requirement will be satisfied by a map or description of the permit area. For draft general permits, this requirement will be satisfied by a map or description of the permit area. For EPA-issued NPDES permits only, if the discharge is from a new source, a statement as to whether an environmental impact statement will be or has been prepared.

(viii) For 404 permits only,

(A) The purpose of the proposed activity (including, in the case of fill material, activities intended to be conducted on the fill), a description of the type, composition, and quantity of materials to be discharged and means of conveyance; and any proposed conditions and limitations on the discharge;

(B) The name and water quality standards classification, if applicable, of the receiving waters into which the discharge is proposed, and a general discription of the site of each proposed discharge and the portions of the site and the discharges which are within State regulated waters;

(C) A description of the anticipated environmental effects of activities conducted under the permit;

(D) References to applicable statutory or regulatory authority; and

(E) Any other available information which may assist the public in evaluating the likely impact of the proposed activity upon the integrity of the receiving water.

(ix) Any additional information considered necessary or proper.

(2) Public notices for hearings. In addition to the general public notice described in paragraph (d)(1) of this section, the public notice of a hearing under § 124.12, subpart E, or subpart F shall contain the following information:

(i) Reference to the date of previous public notices relating to the permit;

(ii) Date, time, and place of the hearing;

(iii) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures; and

(iv) For 404 permits only, a summary of major issues raised to date during the public comment period.

(e) (Applicable to State programs, see §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA)). In addition to the general public notice described in paragraph (d)(1) of this section, all persons identified in paragraphs (c)(1) (i), (ii), (iii), and (iv) of this section shall be mailed a copy of the fact sheet or statement of basis (for EPA-issued permits), the permit application (if any) and the draft permit (if any).

[48 FR 14264, Apr. 1, 1983; 48 FR 30115, June 30, 1983, as amended at 53 FR 28147, July 26, 1988; 53 FR 37410, Sept. 26, 1988; 54 FR 258, Jan. 4, 1989; 54 FR 18786, May 2, 1989]

§ 124.11 Public comments and requests for public hearings.

(Applicable to State programs, see §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).) During the public comment period provided under § 124.10, any interested person may submit written comments on the draft permit or the permit application for 404 permits when no draft permit is required (see § 233.39) and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in § 124.17.

§ 124.12 Public hearings.

(a) (Applicable to State programs, see §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).) (1) The Director shall hold a public hearing whenever he or she finds, on the basis of requests, a significant degree of public interest in a draft permit(s);

(2) The Director may also hold a public hearing at his or her discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision;

(3) For RCRA permits only, (i) the Director shall hold a public hearing whenever he or she receives written notice of opposition to a draft permit and a request for a hearing within 45 days of public notice

under § 124.10(b)(1); (ii) whenever possible the Director shall schedule a hearing under this section at a location convenient to the nearest population center to the proposed facility;

(4) Public notice of the hearing shall be given as specified in § 124.10.

(b) Whenever a public hearing will be held and EPA is the permitting authority, the Regional Administrator shall designate a Presiding Officer for the hearing who shall be responsible for its scheduling and orderly conduct.

(c) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under § 124.10 shall automatically be extended to the close of any public hearing under this section. The hearing officer may also extend the comment period by so stating at the hearing.

(d) A tape recording or written transcript of the hearing shall be made available to the public.

(e)(1) At his or her discretion, the Regional Administrator may specify that RCRA or UIC permits be processed under the procedures in subpart F.

(2) For initial RCRA permits for existing HWM facilities, the Regional Administrator shall have the discretion to provide a hearing under the procedures in subpart F. The permit applicant may request such a hearing pursuant to § 124.114 no one or more issues, if the applicant explains in his request why he or she believes those issues:

(i) Are genuine issues to material fact; and (ii) determine the outcome of one or more contested permit conditions identified as such in the applicant's request, that would require extensive changes to the facility (``contested major permit conditions''). If the Regional Administrator decides to deny the request, he or she shall send to the applicant a brief written statement of his or her reasons for concluding that no such determinative issues have been presented for resolution in such a hearing.

[48 FR 14264, Apr. 1, 1983, as amended at 49 FR 17718, Apr. 24, 1984; 50 FR 6941, Feb. 19, 1985; 54 FR 258, Jan. 4, 1989]

§ 124.13 Obligation to raise issues and provide information during the public comment period.

All persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Director's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period (including any public hearing) under § 124.10. Any supporting materials which are submitted shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of State or Federal statutes and regulations, EPA documents of general applicability, or other generally available reference materials. Commenters shall make supporting materials not already included in the administrative record available to EPA as directed by the Regional Administrator. (A comment period longer than 30 days may be necessary to give commenters a reasonable opportunity to comply with the requirements of this section. Additional time shall be granted under § 124.10 to the extent that a commenter who requests additional time demonstrates the need for such time.)

[49 FR 38051, Sept. 26, 1984]

§ 124.14 Reopening of the public comment period.

(a)(1) The Regional Administrator may order the public comment period reopened if the procedures of this paragraph could expedite the decisionmaking process. When the public comment period is reopened under this paragraph, all persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Regional Administrator's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must submit all reasonably available factual grounds supporting their position, including all supporting material, by a date, not less than sixty days after public notice under paragraph (a)(2) of this section, set by the Regional Administrator. Thereafter, any person may file a written response to the material filed by any other person, by a date, not less than twenty days after the date set for filing of the material, set by the Regional Administrator.

(2) Public notice of any comment period under this paragraph shall identify the issues to which the requirements of § 124.14(a) shall apply.

(3) On his own motion or on the request of any person, the Regional Administrator may direct that the requirements of paragraph (a)(1) of this section shall apply during the initial comment period where it reasonably appears that issuance of the permit will be contested and that applying the requirements of paragraph (a)(1) of this section will substantially expedite the decisionmaking process. The notice of the draft permit shall state whenever this has been done.

(4) A comment period of longer than 60 days will often be necessary in complicated proceedings to give commenters a reasonable opportunity to comply with the requirements of this section. Commenters may request longer comment periods and they shall be granted under § 124.10 to the extent they appear necessary.

(b) If any data information or arguments submitted during the public comment period, including information or arguments required under § 124.13, appear to raise substantial new questions concerning a permit, the Regional Administrator may take one or more of the following actions:

(1) Prepare a new draft permit, appropriately modified, under § 124.6;

(2) Prepare a revised statement of basis under § 124.7, a fact sheet or revised fact sheet under § 124.8 and reopen the comment period under § 124.14; or

(3) Reopen or extend the comment period under § 124.10 to give interested persons an opportunity to comment on the information or arguments submitted.

(c) Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice under § 124.10 shall define the scope of the reopening.

(d) For RCRA, UIC, or NPDES permits, the Regional Administrator may also, in the circumstances described above, elect to hold further proceedings under subpart F. This decision may be combined with any of the actions enumerated in paragraph (b) of this section.

(e) Public notice of any of the above actions shall be issued under § 124.10.

[48 FR 14264, Apr. 1, 1983, as amended at 49 FR 38051, Sept. 26, 1984]

§ 124.15 Issuance and effective date of permit.

(a) After the close of the public comment period under § 124.10 on a draft permit, the Regional Administrator shall issue a final permit decision (or a decision to deny a permit for the active life of a RCRA hazardous waste management facility or unit under § 270.29). The Regional Administrator shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision on a RCRA, UIC, or PSD permit or for contesting a decision on an NPDES permit or a decision to terminate a RCRA permit. For the purposes of this section, a final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

(b) A final permit decision (or a decision to deny a permit for the active life of a RCRA hazardous waste management facility or unit under § 270.29) shall become effective 30 days after the service of notice of the decision unless:

(1) A later effective date is specified in the decision; or

(2) Review is requested under § 124.19 (RCRA, UIC, and PSD permits) or an evidentiary hearing is requested under § 124.74 (NPDES permit and RCRA permit terminations); or

(3) No comments requested a change in the draft permit, in which case the permit shall become effective immediately upon issuance.

[48 FR 14264, Apr. 1, 1983, as amended at 54 FR 9607, Mar. 7, 1989]

§ 124.16 Stays of contested permit conditions.

(a) Stays. (1) If a request for review of a RCRA or UIC permit under § 124.19 or an NPDES permit under § 124.74 or § 124.114 is granted or if conditions of a RCRA or UIC permit are consolidated for reconsideration in an evidentiary hearing on an NPDES permit under §§ 124.74, 124.82 or 124.114, the effect of the contested permit conditions shall be stayed and shall not be subject to judicial review pending final agency action. (No stay of a PSD permit is available under this section.) If the permit involves a new facility or new injection well, new source, new discharger or a recommencing discharger, the applicant shall be without a permit for the proposed new facility, injection well, source or discharger pending final agency action. See also § 124.60.

(2) Uncontested conditions which are not severable from those contested shall be stayed together with the contested conditions. Stayed provisions of permits for existing facilities, injection wells, and sources shall be identified by the Regional Administrator. All other provisions of the permit for the existing facility, injection well, or source shall remain fully effective and enforceable.

(b) Stays based on cross effects. (1) A stay may be granted based on the grounds that an appeal to the Administrator under § 124.19 of one permit may result in changes to another EPA-issued permit only when each of the permits involved has been appealed to the Administrator and he or she has accepted each appeal.

(2) No stay of an EPA-issued RCRA, UIC, or NPDES permit shall be granted based on the staying of any State-issued permit except at the discretion of the Regional Administrator and only upon written request from the State Director.

(c) Any facility or activity holding an existing permit must:

(1) Comply with the conditions of that permit during any modification or revocation and reissuance proceeding under § 124.5; and

(2) To the extent conditions of any new permit are stayed under this section, comply with the conditions of the existing permit which correspond to the stayed conditions, unless compliance with the existing conditions would be technologically incompatible with compliance with other conditions of the new permit which have not been stayed.

§ 124.17 Response to comments.

(a) (Applicable to State programs, see §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).) At the time that any final permit decision is issued under § 124.15, the Director shall issue a response to comments. States are only required to issue a response to comments when a final permit is issued. This response shall:

(1) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

(2) Briefly describe and respond to all significant comments on the draft permit or the permit application (for section 404 permits only) raised during the public comment period, or during any hearing.

(b) For EPA-issued permits, any documents cited in the response to comments shall be included in the administrative record for the final permit decision as defined in § 124.18. If new points are raised or new material supplied during the public comment period, EPA may document its response to those matters by adding new materials to the administrative record.

(c) (Applicable to State programs, see §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).) The response to comments shall be available to the public.

§ 124.18 Administrative record for final permit when EPA is the permitting authority.

(a) The Regional Administrator shall base final permit decisions under § 124.15 on the administrative record defined in this section.

(b) The administrative record for any final permit shall consist of the administrative record for the draft permit and:

(1) All comments received during the public comment period provided under § 124.10 (including any extension or reopening under § 124.14);

(2) The tape or transcript of any hearing(s) held under § 124.12;

(3) Any written materials submitted at such a hearing;

(4) The response to comments required by § 124.17 and any new material placed in the record under that section;

(5) For NPDES new source permits only, final environmental impact statement and any supplement to the final EIS;

(6) Other documents contained in the supporting file for the permit; and

(7) The final permit.

(c) The additional documents required under paragraph (b) of this section should be added to the record as soon as possible after their receipt or publication by the Agency. The record shall be complete on the date the final permit is issued.

(d) This section applies to all final RCRA, UIC, PSD, and NPDES permits when the draft permit was subject to the administrative record requirements of § 124.9 and to all NPDES permits when the draft permit was included in a public notice after October 12, 1979.

(e) Material readily available at the issuing Regional Office, or published materials which are generally available and which are included in the administrative record under the standards of this section or of § 124.17 (``Response to comments''), need not be physically included in the same file as the rest of the record as long as it is specifically referred to in the statement of basis or fact sheet or in the response to comments.

§ 124.19 Appeal of RCRA, UIC, and PSD permits.

(a) Within 30 days after a RCRA, UIC, or PSD final permit decision (or a decision under § 270.29 to deny a permit for the active life of a RCRA hazardous waste management facility or unit) has been issued under § 124.15, any person who filed comments on that draft permit or participated in the public hearing may petition the Administrator to review any condition of the permit decision. Any person who failed to file comments or failed to participate in the public hearing on the draft permit may petition for administrative review only to the extent of the changes from the draft to the final permit decision. The 30-day period within which a person may request review under this section begins with the service of notice of the Regional Administrator's action unless a later date is specified in that notice. The petition shall include a statement of the reasons supporting that review, including a demonstration that any issues being raised were raised during the public comment period (including any public hearing) to the extent required by these regulations and when appropriate, a showing that the condition in question is based on:

(1) A finding of fact or conclusion of law which is clearly erroneous, or

(2) An exercise of discretion or an important policy consideration which the Administrator should, in his or her discretion, review.

(b) The Administrator may also decide on his or her initiative to review any condition of any RCRA, UIC, or PSD permit issued under this part. The Administrator must act under this paragraph within 30 days of the service date of notice of the Regional Administrator's action.

(c) Within a reasonable time following the filing of the petition for review, the Administrator shall issue an order either granting or denying the petition for review. To the extent review is denied, the conditions of the final permit decision become final agency action. Public notice of any grant of review by the Administrator under paragraph (a) or (b) of this section shall be given as provided in § 124.10. Public notice shall set forth a briefing schedule for the appeal and shall state that any interested person may file an amicus brief. Notice of denial of review shall be sent only to the person(s) requesting review.

(d) The Administrator may defer consideration of an appeal of a RCRA or UIC permit under this section until the completion of formal proceedings under subpart E or F relating to an NPDES permit issued to the same facility or activity upon concluding that:

(1) The NPDES permit is likely to raise issues relevant to a decision of the RCRA or UIC appeals;

(2) The NPDES permit is likely to be appealed; and

(3) Either: (i) The interests of both the facility or activity and the public are not likely to be materially adversely affected by the deferral; or

(ii) Any adverse effect is outweighed by the benefits likely to result from a consolidated decision on appeal.

(e) A petition to the Administrator under paragraph (a) of this section is, under 5 U.S.C. 704, a prerequisite to the seeking of judicial review of the final agency action.

(f)(1) For purposes of judicial review under the appropriate Act, final agency action occurs when a final RCRA, UIC, or PSD permit is issued or denied by EPA and agency review procedures are exhausted. A final permit decision shall be issued by the Regional Administrator:

(i) When the Administrator issues notice to the parties that review has been denied; (ii) when the Administrator issues a decision on the merits of the appeal and the decision does not include a remand of the proceedings; or (iii) upon the completion of remand proceedings if the proceedings are remanded, unless the Administrator's remand order specifically provides that appeal of the remand decision will be required to exhaust administrative remedies.

(2) Notice of any final agency action regarding a PSD permit shall promptly be published in the Federal Register.

[48 FR 14264, Apr. 1, 1983, as amended at 54 FR 9607, Mar. 7, 1989]

§ 124.20 Computation of time.

(a) Any time period scheduled to begin on the occurrence of an act or event shall begin on the day after the act or event.

(b) Any time period scheduled to begin before the occurrence of an act or event shall be computed so that the period ends on the day before the act or event.

(c) If the final day of any time period falls on a weekend or legal holiday, the time period shall be extended to the next working day.

(d) Whenever a party or interested person has the right or is required to act within a prescribed period after the service of notice or other paper upon him or her by mail, 3 days shall be added to the prescribed time.

§ 124.21 Effective date of part 124.

(a) Except for paragraphs (b) and (c) of this section, part 124 will become effective July 18, 1980. Because this effective date will precede the processing of any RCRA or UIC permits, part 124 will apply in its entirety to all RCRA and UIC permits.

(b) All provisions of part 124 pertaining to the RCRA program will become effective on November 19, 1980.

(c) All provisions of part 124 pertaining to the UIC program will become effective July 18, 1980, but shall not be implemented until the effective date of 40 CFR part 146.

(d) This part does not significantly change the way in which NPDES permits are processed. Since October 12, 1979, NPDES permits have been the subject to almost identical requirements in the revised NPDES regulations which were promulgated on June 7, 1979. See 44 FR 32948. To the extent this part changes the revised NPDES permit regulations, those changes will take effect as to all permit proceedings in progress on July 3, 1980.

(e) This part also does not significantly change the way in which PSD permits are processed. For the most part, these regulations will also apply to PSD proceedings in progress on July 18, 1980. However, because it would be disruptive to require retroactively a formal administrative record for PSD permits issued without one, §§ 124.9 and 124.18 will apply to PSD permits for which draft permits were prepared after the effective date of these regulations.

Subpart B -- Specific Procedures Applicable to RCRA Permits [Reserved]

Subpart C -- Specific Procedures Applicable to PSD Permits

§ 124.41 Definitions applicable to PSD permits.

Whenever PSD permits are processed under this part, the following terms shall have the following meanings:

``Administrator,'' ``EPA,'' and ``Regional Administrator'' shall have the meanings set forth in § 124.2, except when EPA has delegated authority to administer those regulations to another agency under the applicable subsection of 40 CFR 52.21, the term ``EPA'' shall mean the delegate agency and the term ``Regional Administrator'' shall mean the chief administrative officer of the delegate agency.

``Application'' means an application for a PSD permit.

``Appropriate Act and Regulations'' means the Clean Air Act and applicable regulations promulgated under it.

``Approved program'' means a State implementation plan providing for issuance of PSD permits which has been approved by EPA under the Clean Air Act and 40 CFR part 51. An ``approved State'' is one administering an ``approved program.'' ``State Director'' as used in § 124.4 means the person(s) responsible for issuing PSD permits under an approved program, or that person's delegated representative.

``Construction'' has the meaning given in 40 CFR 52.21.

``Director'' means the Regional Administrator.

``Draft permit'' shall have the meaning set forth in § 124.2.

``Facility or activity'' means a ``major PSD stationary source'' or ``major PSD modification.''

``Federal Land Manager'' has the meaning given in 40 CFR 52.21.

``Indian Governing Body'' has the meaning given in 40 CFR 52.21.

``Major PSD modification'' means a ``major modification'' as defined in 40 CFR 52.21.

``Major PSD stationary source'' means a ``major stationary source'' as defined in 40 CFR 52.21(b)(1).

``Owner or operator'' means the owner or operator of any facility or activity subject to regulation under 40 CFR 52.21 or by an approved State.

``Permit'' or ``PSD permit'' means a permit issued under 40 CFR 52.21 or by an approved State.

``Person'' includes an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent or employee thereof.

``Regulated activity'' or ``activity subject to regulation'' means a ``major PSD stationary source'' or ``major PSD modification.''

``Site'' means the land or water area upon which a ``major PSD stationary source'' or ``major PSD modification'' is physically located or conducted, including but not limited to adjacent land used for utility systems; as repair, storage, shipping or processing areas; or otherwise in connection with the ``major PSD stationary source'' or ``major PSD modification.''

``State'' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa and includes the Commonwealth of the Northern Mariana Islands.

§ 124.42 Additional procedures for PSD permits affecting Class I areas.

(a) The Regional Administrator shall provide notice of any permit application for a proposed major PSD stationary source or major PSD modification the emissions from which would affect a Class I area to the Federal Land Manager, and the Federal official charged with direct responsibility for management of any lands within such area. The Regional Administrator shall provide such notice promptly after receiving the application.

(b) Any demonstration which the Federal Land Manager wishes to present under 40 CFR 52.21(q)(3), and any variances sought by an owner or operator under § 52.21(q)(4) shall be submitted in writing, together with any necessary supporting analysis, by the end of the public comment period under § 124.10 or § 124.118. (40 CFR 52.21(q)(3) provides for denial of a PSD permit to a facility or activity when the Federal Land Manager demonstrates that its emissions would adversely affect a Class I area even though the applicable increments would not be exceeded. 40 CFR 52.21(q)(4) conversely authorizes EPA, with the concurrence of the Federal Land Manager and State responsible, to grant certain variances from the otherwise applicable emission limitations to a facility or activity whose emissions would affect a Class I area.)

(c) Variances authorized by 40 CFR 52.21 (q)(5) through (q)(7) shall be handled as specified in those paragraphs and shall not be subject to this part. Upon receiving appropriate documentation of a variance properly granted under any of these provisions, the Regional Administrator shall enter the variance in the administrative record. Any decisions later made in proceedings under this part concerning that permit shall be consistent with the conditions of that variance.

Subpart D -- Specific Procedures Applicable to NPDES Permits

§ 124.51 Purpose and scope.

(a) This subpart sets forth additional requirements and procedures for decisionmaking for the NPDES program.

(b) Decisions on NPDES variance requests ordinarily will be made during the permit issuance process. Variances and other changes in permit conditions ordinarily will be decided through the same notice-and-comment and hearing procedures as the basic permit.

§ 124.52 Permits required on a case-by-case basis.

(a) Various sections of part 122, subpart B allow the Director to determine, on a case-by-case basis, that certain concentrated animal feeding operations (§ 122.23), concentrated aquatic animal production facilities (§ 122.24), separate storm sewers (§ 122.26), and certain other facilities covered by general permits (§ 122.28) that do not generally require an individual permit may be required to obtain an individual permit because of their contributions to water pollution.

(b) Whenever the Regional Administrator decides that an individual permit is required under this section, the Regional Administrator shall notify the discharger in writing of that decision and the reasons for it, and shall send an application form with the notice. The discharger must apply for a permit under § 122.21 within 60 days of notice. The question whether the initial designation was proper will remain open for consideration during the public comment period under § 124.11 or § 124.118 and in any subsequent hearing.

§ 124.53 State certification.

(a) Under CWA section 401(a)(1), EPA may not issue a permit until a certification is granted or waived in accordance with that section by the State in which the discharge originates or will originate.

(b) Applications received without a State certification shall be forwarded by the Regional Administrator to the certifying State agency with a request that certification be granted or denied.

(c) If State certification has not been received by the time the draft permit is prepared, the Regional Administrator shall send the certifying State agency:

(1) A copy of a draft permit;

(2) A statement that EPA cannot issue or deny the permit until the certifying State agency has granted or denied certification under § 124.55, or waived its right to certify; and

(3) A statement that the State will be deemed to have waived its right to certify unless that right is exercised within a specified reasonable time not to exceed 60 days from the date the draft permit is mailed to the certifying State agency unless the Regional Administrator finds that unusual circumstances require a longer time.

(d) State certification shall be granted or denied within the reasonable time specified under paragraph (c)(3) of this section. The State shall send a notice of its action, including a copy of any certification, to the applicant and the Regional Administrator.

(e) State certification shall be in writing and shall include:

(1) Conditions which are necessary to assure compliance with the applicable provisions of CWA sections 208(e), 301, 302, 303, 306, and 307 and with appropriate requirements of State law;

(2) When the State certifies a draft permit instead of a permit application, any conditions more stringent than those in the draft permit which the State finds necessary to meet the requirements listed in paragraph (e)(1) of this section. For each more stringent condition, the certifying State agency shall cite the CWA or State law references upon which that condition is based. Failure to provide such a citation waives the right to certify with respect to that condition; and

(3) A statement of the extent to which each condition of the draft permit can be made less stringent without violating the requirements of State law, including water quality standards. Failure to provide this statement for any condition waives the right to certify or object to any less stringent condition which may be established during the EPA permit issuance process.

§ 124.54 Special provisions for State certification and concurrence on applications for section 301(h) variances.

(a) When an application for a permit incorporating a variance request under CWA section 301(h) is submitted to a State, the appropriate State official shall either:

(1) Deny the request for the CWA section 301(h) variance (and so notify the applicant and EPA) and, if the State is an approved NPDES State and the permit is due for reissuance, process the permit application under normal procedures; or

(2) Forward a certification meeting the requirements of § 124.53 to the Regional Administrator.

(b) When EPA issues a tentative decision on the request for a variance under CWA section 301(h), and no certification has been received under paragraph (a) of this section, the Regional Administrator shall forward the tentative decision to the State in accordance with § 124.53(b) specifying a reasonable time for State certification and concurrence. If the State fails to deny or grant certification and concurrence under paragraph (a) of this section within such reasonable time, certification shall be waived and the State shall be deemed to have concurred in the issuance of a CWA section 301(h) variance.

(c) Any certification provided by a State under paragraph (a)(2) of this section shall constitute the State's concurrence (as required by section 301(h)) in the issuance of the permit incorporating a section 301(h) variance subject to any conditions specified therein by the State. CWA section 301(h) certification and concurrence under this section will not be forwarded to the State by EPA for recertification after the permit issuance process; States must specify any conditions required by State law, including water quality standards, in the initial certification.

§ 124.55 Effect of State certification.

(a) When certification is required under CWA section 401(a)(1) no final permit shall be issued:

(1) If certification is denied, or

(2) Unless the final permit incorporates the requirements specified in the certification under § 124.53(d)(1) and (2).

(b) If there is a change in the State law or regulation upon which a certification is based, or if a court of competent jurisdiction or appropriate State board or agency stays, vacates, or remands a certification, a State which has issued a certification under § 124.53 may issue a modified certification or notice of waiver and forward it to EPA. If the modified certification is received before final agency action on the permit, the permit shall be consistent with the more stringent conditions which are based upon State law identified in such certification. If the certification or notice of waiver is received after final agency action on the permit, the Regional Administrator may modify the permit on request of the permittee only to the extent necessary to delete any conditions based on a condition in a certification invalidated by a court of competent jurisdiction or by an appropriate State board or agency.

(c) A State may not condition or deny a certification on the grounds that State law allows a less stringent permit condition. The Regional Administrator shall disregard any such certification conditions, and shall consider those conditions or denials as waivers of certification.

(d) A condition in a draft permit may be changed during agency review in any manner consistent with a certification meeting the requirements of § 124.53(d). No such changes shall require EPA to submit the permit to the State for recertification.

(e) Review and appeals of limitations and conditions attributable to State certification shall be made through the applicable procedures of the State and may not be made through the procedures in this part.

(f) Nothing in this section shall affect EPA's obligation to comply with § 122.47. See CWA section 301(b)(1)(C).

§ 124.56 Fact sheets.

(Applicable to State programs, see § 123.25 (NPDES).) In addition to meeting the requirements of § 124.8, NPDES fact sheets shall contain the following:

(a) Any calculations or other necessary explanation of the derivation of specific effluent limitations and conditions or standards for sewage sludge use or disposal, including a citation to the applicable effluent limitation guideline, performance standard, or standard for sewage sludge use or disposal as required by § 122.44 and reasons why they are applicable or an explanation of how the alternate effluent limitations were developed.

(b)(1) When the draft permit contains any of the following conditions, an explanation of the reasons why such conditions are applicable:

(i) Limitations to control toxic pollutants under § 122.44(e);

(ii) Limitations on internal waste streams under § 122.45(i); or

(iii) Limitations on indicator pollutants under § 125.3(g).

(iv) Limitations set on a case-by-case basis under § 125.3 (c)(2) or (c)(3), or pursuant to Section 405(d)(4) of the CWA.

(2) For every permit to be issued to a treatment works owned by a person other than a State or municipality, an explanation of the Director's decision on regulation of users under § 122.44(m).

(c) When appropriate, a sketch or detailed description of the location of the discharge or regulated activity described in the application; and

(d) For EPA-issued NPDES permits, the requirements of any State certification under § 124.53.

(e) For permits that include a sewage sludge land application plan under 40 CFR 501.15(a)(2)(ix), a brief description of how each of the required elements of the land application plan are addressed in the permit.

[48 FR 14264, Apr. 1, 1983, as amended at 49 FR 38051, Sept. 26, 1984; 54 FR 18786, May 2, 1989]

§ 124.57 Public notice.

(a) Section 316(a) requests (applicable to State programs, see § 123.25). In addition to the information required under § 124.10(d)(1), public notice of an NPDES draft permit for a discharge where a CWA section 316(a) request has been filed under § 122.21(l) shall include:

(1) A statement that the thermal component of the discharge is subject to effluent limitations under CWA section 301 or 306 and a brief description, including a quantitative statement, of the thermal effluent limitations proposed under section 301 or 306;

(2) A statement that a section 316(a) request has been filed and that alternative less stringent effluent limitations may be imposed on the thermal component of the discharge under section 316(a) and a brief description, including a quantitative statement, of the alternative effluent limitations, if any, included in the request; and

(3) If the applicant has filed an early screening request under § 125.72 for a section 316(a) variance, a statement that the applicant has submitted such a plan.

(b) Evidentiary hearings under subpart E. In addition to the information required under § 124.10(d)(2), public notice of a hearing under subpart E shall include:

(1) Reference to any public hearing under § 124.12 on the disputed permit;

(2) Name and address of the person(s) requesting the evidentiary hearing;

(3) A statement of the following procedures:

(i) Any person seeking to be a party must file a request to be admitted as a party to the hearing within 15 days of the date of publication of the notice;

(ii) Any person seeking to be a party may, subject to the requirements of § 124.76, propose material issues of fact or law not already raised by the original requester or another party;

(iii) The conditions of the permit(s) at issue may be amended after the evidentiary hearing and any person interested in those permit(s) must request to be a party in order to preserve any right to appeal or otherwise contest the final administative decision.

(c) Non-adversary panel procedures under subpart F. (1) In addition to the information required under § 124.10(d)(2), mailed public notice of a draft permit to be processed under subpart F shall include a statement that any hearing shall be held under subpart F (panel hearing).

(2) Mailed public notice of a panel hearing under subpart F shall include:

(i) Name and address of the person requesting the hearing, or a statement that the hearing is being held by order of the Regional Administrator, and the name and address of each known party to the hearing;

(ii) A statement whether the recommended decision will be issued by the Presiding Officer or by the Regional Administrator;

(iii) The due date for filing a written request to participate in the hearing under § 124.117; and

(iv) The due date for filing comments under § 124.118.

[48 FR 14264, Apr. 1, 1983; 50 FR 6941, Feb. 19, 1985]

§ 124.58 Special procedures for EPA-issued general permits for point sources other than separate storm sewers.

(a) The Regional Administrator shall send a copy of the draft general permit and the administrative record to the Deputy Assistant Administrator for Water Enforcement during the public comment period.

(b) The Deputy Assistant Administrator for Water Enforcement shall have 30 days from receipt of the draft general permit, or shall have until the end of the public comment period, whichever is later, to comment upon, object to, or make recommendations with respect to the draft general permit.

(c) If the Deputy Assistant Administrator for Water Enforcement objects to a draft general permit within the period specified in paragraph (b) of this section, the Regional Administrator shall not issue the final general permit until the Deputy Assistant Administrator for Water Enforcement concurs in writing with the conditions of the general permit.

§ 124.59 Conditions requested by the Corps of Engineers and other government agencies.

(Applicable to State programs, see § 123.25 (NPDES).) (a) If during the comment period for an NPDES draft permit, the District Engineer advises the Director in writing that anchorage and navigation of any of the waters of the United States would be substantially impaired by the granting of a permit, the permit shall be denied and the applicant so notified. If the District Engineer advised the Director that imposing specified conditions upon the permit is necessary to avoid any substantial impairment of anchorage or navigation, then the Director shall include the specified conditions in the permit. Review or appeal of denial of a permit or of conditions specified by the District Engineer shall be made through the applicable procedures of the Corps of Engineers, and may not be made through the procedures provided in this part. If the conditions are stayed by a court of competent jurisdiction or by applicable procedures of the Corps of Engineers, those conditions shall be considered stayed in the NPDES permit for the duration of that stay.

(b) If during the comment period the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, or any other State or Federal agency with jurisdiction over fish, wildlife, or public health advises the Director in writing that the imposition of specified conditions upon the permit is necessary to avoid substantial impairment of fish, shellfish, or wildlife resources, the Director may include the specified conditions in the permit to the extent they are determined necessary to carry out the provisions of § 122.49 and of the CWA.

(c) In appropriate cases the Director may consult with one or more of the agencies referred to in this section before issuing a draft permit and may reflect their views in the statement of basis, the fact sheet, or the draft permit.

[48 FR 14264, Apr. 1, 1983, as amended at 54 FR 258, Jan. 4, 1989]

§ 124.60 Issuance and effective date and stays of NPDES permits.

In addition to the requirements of § 124.15, the following provisions apply to NPDES permits and to RCRA or UIC permits to the extent those permits may have been consolidated with an NPDES permit in a formal hearing:

(a)(1) If a request for a formal hearing is granted under § 124.75 or § 124.114 regarding the initial permit issued for a new source, a new discharger, or a recommencing discharger, or if a petition for review of the denial of a request for a formal hearing with respect to such a permit is timely filed with the Administrator under § 124.91, the applicant shall be without a permit pending final Agency action under § 124.91.

(2) Whenever a source or facility subject to this paragraph or to paragraph (c)(7) of this section has received a final permit under § 124.15 which is the subject of a hearing request under § 124.74 or a formal hearing under § 124.75, the Presiding Officer, on motion by the source or facility, may issue an order authorizing it to begin discharges (or in the case of RCRA permits, construction or operations) if it complies with all uncontested conditions of the final permit and all other appropriate conditions imposed by the Presiding Officer during the period until final agency action. The motion shall be granted if no party opposes it, or if the source or facility demonstrates that:

(i) It is likely to receive a permit to discharge (or in the case of RCRA permits, to operate or construct) at that site;

(ii) The environment will not be irreparably harmed if the source or facility is allowed to begin discharging (or in the case of RCRA, to begin operating or construction) in compliance with the conditions of the Presiding Officer's order pending final agency action; and

(iii) Its discharge (or in the case of RCRA, its operation or construction) pending final agency action is in the public interest.

(3) For RCRA only, no order under paragraph (a)(2) may authorize a facility to commence construction if any party has challenged a construction-related permit term or condition.

(b) The Regional Administrator, at any time prior to the rendering of an initial decision in a formal hearing on a permit, may withdraw the permit and prepare a new draft permit under § 124.6 addressing the portions so withdrawn. The new draft permit shall proceed through the same process of public comment and opportunity for a public hearing as would apply to any other draft permit subject to this part. Any portions of the permit which are not withdrawn and which are not stayed under this section shall remain in effect.

(c)(1) If a request for a formal hearing is granted in whole or in part under § 124.75 regarding a permit for an existing source, or if a petition for review of the denial of a request for a formal hearing with respect to that permit is timely filed with the Administrator under § 124.91, the force and effect of the contested conditions of the final permit shall be stayed. The Regional Administrator shall notify, in accordance with § 124.75, the discharger and all parties of the uncontested conditions of the final permit that are enforceable obligations of the discharger.

(2) When effluent limitations are contested, but the underlying control technology is not, the notice shall identify the installation of the technology in accordance with the permit compliance schedules (if uncontested) as an uncontested, enforceable obligation of the permit.

(3) When a combination of technologies is contested, but a portion of the combination is not contested, that portion shall be identified as uncontested if compatible with the combination of technologies proposed by the requester.

(4) Uncontested conditions, if inseverable from a contested condition, shall be considered contested.

(5) Uncontested conditions shall become enforceable 30 days after the date of notice under paragraph (c)(1) of this section granting the request. If, however, a request for a formal hearing on a condition was denied and the denial is appealed under § 124.91, then that condition shall become enforceable upon the date of the notice of the Administrator's decision on the appeal if the denial is affirmed, or shall be stayed, in accordance with this section, if the Administrator reverses the denial and grants the evidentiary hearing.

(6) Uncontested conditions shall include:

(i) Preliminary design and engineering studies or other requirements necessary to achieve the final permit conditions which do not entail substantial expenditures;

(ii) Permit conditions which will have to be met regardless of which party prevails at the evidentiary hearing;

(iii) When the discharger proposed a less stringent level of treatment than that contained in the final permit, any permit conditions appropriate to meet the levels proposed by the discharger, if the measures required to attain that less stringent level of treatment are consistent with the measures required to attain the limits proposed by any other party; and

(iv) Construction activities, such as segregation of waste streams or installation of equipment, which would partially meet the final permit conditions and could also be used to achieve the discharger's proposed alternative conditions.

(7) If for any offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig which has never received a finally effective permit to discharge at a ``site,'' but which is not a ``new discharger'' or a ``new source,'' the Regional Administrator finds that compliance with certain permit conditions may be necessary to avoid irreparable environmental harm during the administrative review, he may specify in the statement of basis or fact sheet that those conditions, even if contested, shall remain enforceable obligations of the discharger during administrative review unless otherwise modified by the Presiding Officer under paragraph (a)(2) of this section.

(d) If at any time after a hearing is granted and after the Regional Administrator's notice under paragraph (c)(1) of this section it becomes clear that a permit requirement is no longer contested, any party may request the Presiding Officer to issue an order identifying the requirements as uncontested. The requirement identified in such order shall become enforceable 30 days after the issuance of the order.

(e) When a formal hearing is granted under § 124.75 on an application for a renewal of an existing permit, all provisions of the existing permit as well as uncontested provisions of the new permit, shall continue fully enforceable and effective until final agency action under § 124.91. (See § 122.6) Upon written request from the applicant, the Regional Administrator may delete requirements from the existing permit which unnecessarily duplicate uncontested provisions of the new permit.

(f) When issuing a finally effective NPDES permit the conditions of which were the subject of a formal hearing under subpart E or F, the Regional Administrator shall extend the permit compliance schedule to the extent required by a stay under this section provided that no such extension shall be granted which would:

(1) Result in the violation of an applicable statutory deadline; or

(2) Cause the permit to expire more than 5 years after issuance under § 124.15(a).

Note: Extensions of compliance schedules under § 124.60(f)(2) will not automatically be granted for a period equal to the period the stay is in effect for an effluent limitation. For example, if both the Agency and the discharger agree that a certain treatment technology is required by the CWA where guidelines do not apply, but a hearing is granted to consider the effluent limitations which the technology will achieve, requirements regarding installation of the underlying technology will not be stayed during the hearing. Thus, unless the hearing extends beyond the final compliance date in the permit, it will not ordinarily be necessary to extend the compliance schedule. However, when application of an underlying technology is challenged, the stay for installation requirements relating to that technology would extend for the duration of the hearing.

(g) For purposes of judicial review under CWA section 509(b), final agency action on a permit does not occur unless and until a party has exhausted its administrative remedies under subparts E and F and § 124.91. Any party which neglects or fails to seek review under § 124.91 thereby waives its opportunity to exhaust available agency remedies.

(Clean Water Act (33 U.S.C. 1251 et seq.), Safe Drinking Water Act (42 U.S.C. 300f et seq.), Clean Air Act (42 U.S.C. 7401 et seq.), Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.))

[48 FR 14264, Apr. 1, 1983, as amended at 48 FR 39620, Sept. 1, 1983]

§ 124.61 Final environmental impact statement.

No final NPDES permit for a new source shall be issued until at least 30 days after the date of issuance of a final environmental impact statement if one is required under 40 CFR 6.805.

§ 124.62 Decision on variances.

(Applicable to State programs, see § 123.25 (NPDES).)

(a) The Director may grant or deny requests for the following variances (subject to EPA objection under § 123.44 for State permits):

(1) Extensions under CWA section 301(i) based on delay in completion of a publicly owned treatment works;

(2) After consultation with the Regional Administrator, extensions under CWA section 301(k) based on the use of innovative technology; or

(3) Variances under CWA section 316(a) for thermal pollution.

(b) The State Director may deny, or forward to the Regional Administrator with a written concurrence, or submit to EPA without recommendation a completed request for:

(1) A variance based on the economic capability of the applicant under CWA section 301(c); or

(2) A variance based on water quality related effluent limitations under CWA section 302(b)(2).

(c) The Regional Administrator may deny, forward, or submit to the EPA Office Director for Water Enforcement and Permits with a recommendation for approval, a request for a variance listed in paragraph (b) of this section that is forwarded by the State Director, or that is submitted to the Regional Administrator by the requester where EPA is the permitting authority.

(d) The EPA Office Director for Water Enforcement and Permits may approve or deny any variance request submitted under paragraph (c) of this section. If the Office Director approves the variance, the Director may prepare a draft permit incorporating the variance. Any public notice of a draft permit for which a variance or modification has been approved or denied shall identify the applicable procedures for appealing that decision under § 124.64.

(e) The State Director may deny or forward to the Administrator (or his delegate) with a written concurrence a completed request for:

(1) A variance based on the presence of ``fundamentally different factors'' from those on which an effluent limitations guideline was based;

(2) A variance based upon certain water quality factors under CWA section 301(g).

(f) The Administrator (or his delegate) may grant or deny a request for a variance listed in paragraph (e) of this section that is forwarded by the State Director, or that is submitted to EPA by the requester where EPA is the permitting authority. If the Administrator (or his delegate) approves the variance, the State Director or Regional Administrator may prepare a draft permit incorporating the variance. Any public notice of a draft permit for which a variance or modification has been approved or denied shall identify the applicable procedures for appealing that decision under § 124.64.

[48 FR 14264, Apr. 1, 1983; 50 FR 6941, Feb. 19, 1985, as amended at 51 FR 16030, Apr. 30, 1986; 54 FR 256, 258, Jan. 4, 1989]

§ 124.63 Procedures for variances when EPA is the permitting authority.

(a) In States where EPA is the permit issuing authority and a request for a variance is filed as required by § 122.21, the request shall be processed as follows:

(1)(i) If, at the time, that a request for a variance based on the presence of fundamentally different factors or on section 301(g) of the CWA is submitted, the Regional Administrator has received an application under § 124.3 for issuance or renewal of that permit, but has not yet prepared a draft permit under § 124.6 covering the discharge in question, the Administrator (or his delegate) shall give notice of a tentative decision on the request at the time the notice of the draft permit is prepared as specified in § 124.10, unless this would significantly delay the processing of the permit. In that case the processing of the variance request may be separated from the permit in accordance with paragraph (a)(3) of this section, and the processing of the permit shall proceed without delay.

(ii) If, at the time, that a request for a variance under sections 301(c) or 302(b)(2) of the CWA is submitted, the Regional Administrator has received an application under § 124.3 for issuance or renewal of that permit, but has not yet prepared a draft permit under § 124.6 covering the discharge in question, the Regional Administrator, after obtaining any necessary concurrence of the EPA Deputy Assistant Administrator for Water Enforcement under § 124.62, shall give notice of a tentative decision on the request at the time the notice of the draft permit is prepared as specified in § 124.10, unless this would significantly delay the processing of the permit. In that case the processing of the variance request may be separated from the permit in accordance with paragraph (a)(3) of this section, and the processing of the permit shall proceed without delay.

(2) If, at the time that a request for a variance is filed the Regional Administrator has given notice under § 124.10 of a draft permit covering the discharge in question, but that permit has not yet become final, administrative proceedings concerning that permit may be stayed and the Regional Administrator shall prepare a new draft permit including a tentative decision on the request, and the fact sheet required by § 124.8. However, if this will significantly delay the processing of the existing draft permit or the Regional Administrator, for other reasons, considers combining the variance request and the existing draft permit inadvisable, the request may be separated from the permit in accordance with paragraph (a)(3) of this section, and the administrative dispositon of the existing draft permit shall proceed without delay.

(3) If the permit has become final and no application under § 124.3 concerning it is pending or if the variance request has been separated from a draft permit as described in paragraphs (a) (1) and (2) of this section, the Regional Administrator may prepare a new draft permit and give notice of it under § 124.10. This draft permit shall be accompanied by the fact sheet required by § 124.8 except that the only matters considered shall relate to the requested variance.

[48 FR 14264, Apr. 1, 1983, as amended at 51 FR 16030, Apr. 30, 1986]

§ 124.64 Appeals of variances.

(a) When a State issues a permit on which EPA has made a variance decision, separate appeals of the State permit and of the EPA variance decision are possible. If the owner or operator is challenging the same issues in both proceedings, the Regional Administrator will decide, in consultation with State officials, which case will be heard first.

(b) Variance decisions made by EPA may be appealed under either subpart E or F, provided the requirements of the applicable subpart are met. However, whenever the basic permit decision is eligible only for an evidentiary hearing under subpart E while the variance decision is eligible only for a panel hearing under subpart F, the issues relating to both the basic permit decision and the variance decision shall be considered in the subpart E proceeding. No subpart F hearing may be held if a subpart E hearing would be held in addition. See § 124.111(b).

(c) Stays for section 301(g) variances. If a request for an evidentiary hearing is granted on a variance requested under CWA section 301(g), or if a petition for review of the denial of a request for the hearing is filed under § 124.91, any otherwise applicable standards and limitations under CWA section 301 shall not be stayed unless:

(1) In the judgment of the Regional Administrator, the stay or the variance sought will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity, or synergistic propensities; and

(2) In the judgment of the Regional Administrator, there is a substantial likelihood that the discharger will succeed on the merits of its appeal; and

(3) The discharger files a bond or other appropriate security which is required by the Regional Administrator to assure timely compliance with the requirements from which a variance is sought in the event that the appeal is unsuccessful.

(d) Stays for variances other than section 301(g) are governed by § 124.60.

§ 124.65 [Reserved]

§ 124.66 Special procedures for decisions on thermal variances under section 316(a).

(a) Except as provided in § 124.65, the only issues connected with issuance of a particular permit on which EPA will make a final Agency decision before the final permit is issued under §§ 124.15 and 124.60 are whether alternative effluent limitations would be justified under CWA section 316(a) and whether cooling water intake structures will use the best available technology under section 316(b). Permit applicants who wish an early decision on these issues should request it and furnish supporting reasons at the time their permit applications are filed under § 122.21. The Regional Administrator will then decide whether or not to make an early decision. If it is granted, both the early decision on CWA section 316 (a) or (b) issues and the grant of the balance of the permit shall be considered permit issuance under these regulations, and shall be subject to the same requirements of public notice and comment and the same opportunity for an evidentiary or panel hearing under subpart E or F.

(b) If the Regional Administrator, on review of the administrative record, determines that the information necessary to decide whether or not the CWA section 316(a) issue is not likely to be available in time for a decision on permit issuance, the Regional Administrator may issue a permit under § 124.15 for a term up to 5 years. This permit shall require achievement of the effluent limitations initially proposed for the thermal component of the discharge no later than the date otherwise required by law. However, the permit shall also afford the permittee an opportunity to file a demonstration under CWA section 316(a) after conducting such studies as are required under 40 CFR part 125, subpart H. A new discharger may not exceed the thermal effluent limitation which is initially proposed unless and until its CWA section 316(a) variance request is finally approved.

(c) Any proceeding held under paragraph (a) of this section shall be publicly noticed as required by § 124.10 and shall be conducted at a time allowing the permittee to take necessary measures to meet the final compliance date in the event its request for modification of thermal limits is denied.

(d) Whenever the Regional Administrator defers the decision under CWA section 316(a), any decision under section 316(b) may be deferred.

Subpart E -- Evidentiary Hearings for EPA-Issued NPDES Permits and EPA-Terminated RCRA Permits

§ 124.71 Applicability.

(a) The regulations in this subpart govern all formal hearings conducted by EPA under CWA sections 402 and 405(f), except those conducted under subpart F. They also govern all evidentiary hearings conducted under RCRA section 3008 in connection with the termination of a RCRA permit. This includes termination of interim status for failure to furnish information needed to make a final decision. A formal hearing is available to challenge any NPDES permit issued under § 124.15 except for a general permit. Persons affected by a general permit may not challenge the conditions of a general permit as of right in further agency proceedings. They may instead either challenge the general permit in court, or apply for an individual NPDES permit under § 122.21 as authorized in § 122.28 and then request a formal hearing on the issuance or denial of an individual permit. (The Regional Administrator also has the discretion to use the procedures of subpart F for general permits. See § 124.111).

(b) In certain cases, evidentiary hearings under this subpart may also be held on the conditions of UIC permits, or of RCRA permits which are being issued, modified, or revoked and reissued, rather than terminated or suspended. This will occur when the conditions of the UIC or RCRA permit in question are closely linked with the conditions of an NPDES permit as to which an evidentiary hearing has been granted. See § 124.74(b)(2). Any interested person may challenge the Regional Administrator's initial new source determination by requesting an evidentiary hearing under this part. See § 122.29.

(c) PSD permits may never be subject to an evidentiary hearing under this subpart. Section 124.74(b)(2)(iv) provides only for consolidation of PSD permits with other permits subject to a panel hearing under subpart F.

[48 FR 14264, Apr. 1, 1983, as amended at 54 FR 18786, May 2, 1989]

§ 124.72 Definitions.

For the purpose of this subpart, the following definitions are applicable:

``Hearing Clerk'' means The Hearing Clerk, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460.

``Judicial Officer'' means a permanent or temporary employee of the Agency appointed as a Judicial Officer by the Administrator under these regulations and subject to the following conditions:

(a) A Judicial Officer shall be a licensed attorney. A Judicial Officer shall not be employed in the Office of Enforcement or the Office of Water and Waste Management, and shall not participate in the consideration or decision of any case in which he or she performed investigative or prosecutorial functions, or which is factually related to such a case.

(b) The Administrator may delegate any authority to act in an appeal of a given case under this subpart to a Judicial Officer who, in addition, may perform other duties for EPA, provided that the delegation shall not preclude a Judicial Officer from referring any motion or case to the Administrator when the Judicial Officer decides such action would be appropriate. The Administrator, in deciding a case, may consult with and assign the drafting of preliminary findings of fact and conclusions and/or a preliminary decision to any Judicial Officer.

``Party'' means the EPA trial staff under § 124.78 and any person whose request for a hearing under § 124.74 or whose request to be admitted as a party or to intervene under § 124.79 or § 124.117 has been granted.

``Presiding Officer'' for the purposes of this subpart means an Administrative Law Judge appointed under 5 U.S.C. 3105 and designated to preside at the hearing. Under subpart F other persons may also serve as hearing officers. See § 124.119.

``Regional Hearing Clerk'' means an employee of the Agency designated by a Regional Administrator to establish a repository for all books, records, documents, and other materials relating to hearings under this subpart.

§ 124.73 Filing and submission of documents.

(a) All submissions authorized or required to be filed with the Agency under this subpart shall be filed with the Regional Hearing Clerk, unless otherwise provided by regulation. Submissions shall be considered filed on the date on which they are mailed or delivered in person to the Regional Hearing Clerk.

(b) All submissions shall be signed by the person making the submission, or by an attorney or other authorized agent or representative.

(c)(1) All data and information referred to or in any way relied upon in any submission shall be included in full and may not be incorporated by reference, unless previously submitted as part of the administrative record in the same proceeding. This requirement does not apply to State or Federal statutes and regulations, judicial decisions published in a national reporter system, officially issued EPA documents of general applicability, and any other generally available reference material which may be incorporated by reference. Any party incorporating materials by reference shall provide copies upon request by the Regional Administrator or the Presiding Officer.

(2) If any part of the material submitted is in a foreign language, it shall be accompanied by an English translation verified under oath to be complete and accurate, together with the name, address, and a brief statement of the qualifications of the person making the translation. Translations of literature or other material in a foreign language shall be accompanied by copies of the original publication.

(3) Where relevant data or information is contained in a document also containing irrelevant matter, either the irrelevant matter shall be deleted or the relevant portions shall be indicated.

(4) Failure to comply with the requirements of this section or any other requirement in this subpart may result in the noncomplying portions of the submission being excluded from consideration. If the Regional Administrator or the Presiding Officer, on motion by any party or sua sponte, determines that a submission fails to meet any requirement of this subpart, the Regional Administrator or Presiding Officer shall direct the Regional Hearing Clerk to return the submission, together with a reference to the applicable regulations. A party whose materials have been rejected has 14 days to correct the errors and resubmit, unless the Regional Administrator or the Presiding Officer finds good cause to allow a longer time.

(d) The filing of a submission shall not mean or imply that it in fact meets all applicable requirements or that it contains reasonable grounds for the action requested or that the action requested is in accordance with law.

(e) The original of all statements and documents containing factual material, data, or other information shall be signed in ink and shall state the name, address, and the representative capacity of the person making the submission.

§ 124.74 Requests for evidentiary hearing.

(a) Within 30 days following the service of notice of the Regional Administrator's final permit decision under § 124.15, any interested person may submit a request to the Regional Administrator under paragraph (b) of this section for an evidentiary hearing to reconsider or contest that decision. If such a request is submitted by a person other than the permittee, the person shall simultaneously serve a copy of the request on the permittee.

(b)(1) In accordance with § 124.76, such requests shall state each legal or factual question alleged to be at issue, and their relevance to the permit decision, together with a designation of the specific factual areas to be adjudicated and the hearing time estimated to be necessary for adjudication. Information supporting the request or other written documents relied upon to support the request shall be submitted as required by § 124.73 unless they are already part of the administrative record required by § 124.18.

Note: This paragraph allows the submission of requests for evidentiary hearings even though both legal and factual issues may be raised, or only legal issues may be raised. In the latter case, because no factual issues were raised, the Regional Administrator would be required to deny the request. However, on review of the denial the Administrator is authorized by § 124.91(a)(1) to review policy or legal conclusions of the Regional Administrator. EPA is requiring an appeal to the Administrator even of purely legal issues involved in a permit decision to ensure that the Administrator will have an opportunity to review any permit before it will be final and subject to judicial review.

(2) Persons requesting an evidentiary hearing on an NPDES permit under this section may also request an evidentiary hearing on a RCRA or UIC permit, PSD permits may never be made part of an evidentiary hearing under subpart E. This request is subject to all the requirements of paragraph (b)(1) of this section and in addition will be granted only if:

(i) Processing of the RCRA or UIC permit at issue was consolidated with the processing of the NPDES permit as provided in § 124.4;

(ii) The standards for granting a hearing on the NPDES permit are met;

(iii) The resolution of the NPDES permit issues is likely to make necessary or appropriate modification of the RCRA or UIC permit; and

(iv) If a PSD permit is involved, a permittee who is eligible for an evidentiary hearing under subpart E on his or her NPDES permit requests that the formal hearing be conducted under the procedures of subpart F and the Regional Administrator finds that consolidation is unlikly to delay final permit issuance beyond the PSD one-year statutory deadline.

(c) These requests shall also contain:

(1) The name, mailing address, and telephone number of the person making such request;

(2) A clear and concise factual statement of the nature and scope of the interest of the requester;

(3) The names and addresses of all persons whom the requester represents; and

(4) A statement by the requester that, upon motion of any party granted by the Presiding Officer, or upon order of the Presiding Officer sua sponte without cost or expense to any other party, the requester shall make available to appear and testify, the following:

(i) The requester;

(ii) All persons represented by the requester; and

(iii) All officers, directors, employees, consultants, and agents of the requester and the persons represented by the requester.

(5) Specific references to the contested permit conditions, as well as suggested revised or alternative permit conditions (including permit denials) which, in the judgment of the requester, would be required to implement the purposes and policies of the CWA.

(6) In the case of challenges to the application of control or treatment technologies identified in the statement of basis or fact sheet, identification of the basis for the objection, and the alternative technologies or combination of technologies which the requester believes are necessary to meet the requirements of the CWA.

(7) Identification of the permit obligations that are contested or are inseverable from contested conditions and should be stayed if the request is granted by reference to the particular contested conditions warranting the stay.

(8) Hearing requests also may ask that a formal hearing be held under the procedures set forth in subpart F. An applicant may make such a request even if the proceeding does not constitute ``initial licensing'' as defined in § 124.111.

(d) If the Regional Administrator grants an evidentiary hearing request, in whole or in part, the Regional Administrator shall identify the permit conditions which have been contested by the requester and for which the evidentiary hearing has been granted. Permit conditions which are not contested or for which the Regional Administrator has denied the hearing request shall not be affected by, or considered at, the evidentiary hearing. The Regional Administrator shall specify these conditions in writing in accordance with § 124.60(c).

(e) The Regional Administrator must grant or deny all requests for an evidentiary hearing on a particular permit. All requests that are granted for a particular permit shall be combined in a single evidentiary hearing.

(f) The Regional Administrator (upon notice to all persons who have already submitted hearing requests) may extend the time allowed for submitting hearing requests under this section for good cause.

§ 124.75 Decision on request for a hearing.

(a)(1) Within 30 days following the expiration of the time allowed by § 124.74 for submitting an evidentiary hearing request, the Regional Administrator shall decide the extent to which, if at all, the

request shall be granted, provided that the request conforms to the requirements of § 124.74, and sets forth material issues of fact relevant to the issuance of the permit.

(2) When an NPDES permit for which a hearing request has been granted constitutes ``initial licensing'' under § 124.111, the Regional Administrator may elect to hold a formal hearing under the procedures of subpart F rather than under the procedures of this subpart even if no person has requested that subpart F be applied. If the Regional Administrator makes such a decision, he or she shall issue a notice of hearing under § 124.116. All subsequent proceedings shall then be governed by §§ 124.117 through 124.121, except that any reference to a draft permit shall mean the final permit.

(3) Whenever the Regional Administrator grants a request made under § 124.74(c)(8) for a formal hearing under subpart F on an NPDES permit that does not constitute an initial license under § 124.111, the Regional Administrator shall issue a notice of hearing under § 124.116 including a statement that the permit will be processed under the procedures of subpart F unless a written objection is received within 30 days. If no valid objection is received, the application shall be processed in accordance with §§ 124.117 through 124.121, except that any reference to a draft permit shall mean the final permit. If a valid objection is received, this subpart shall be applied instead.

(b) If a request for a hearing is denied in whole or in part, the Regional Administrator shall briefly state the reasons. That denial is subject to review by the Administrator under § 124.91.

§ 124.76 Obligation to submit evidence and raise issues before a final permit is issued.

In any case where the Regional Administrator elected to apply the requirements of § 124.14(a), no evidence shall be submitted by any party to a hearing under this subpart that was not submitted to the administrative record required by § 124.18 as part of the preparation of and comment on a draft permit, unless good cause is shown for the failure to submit it. No issues shall be raised by any party that were not submitted to the administrative record required by § 124.18 as part of the preparation of and comment on a draft permit unless good cause is shown for the failure to submit them. Good cause includes the case where the party seeking to raise the new issues or introduce new information shows that it could not reasonably have ascertained the issues or made the information available within the time required by § 124.15; or that it could not have reasonably anticipated the relevance or materiality of the information sought to be introduced. Good cause exists for the introduction of data available on operation authorized under § 124.60(a)(2).

[49 FR 38051, Sept. 26, 1984]

§ 124.77 Notice of hearing.

Public notice of the grant of an evidentiary hearing regarding a permit shall be given as provided in § 124.57(b) and by mailing a copy to all persons who commented on the draft permit, testified at the public hearing, or submitted a request for a hearing. Before the issuance of the notice, the Regional Administrator shall designate the Agency trial staff and the members of the decisional body (as defined in § 124.78).

§ 124.78 Ex parte communications.

(a) For purposes of this section, the following definitions shall apply:

(1) ``Agency trial staff'' means those Agency employees, whether temporary or permanent, who have been designated by the Agency under § 124.77 or § 124.116 as available to investigate, litigate, and present the evidence, arguments, and position of the Agency in the evidentiary hearing or nonadversary panel hearing. Any EPA employee, consultant, or contractor who is called as a witness by EPA trial staff, or who assisted in the formulation of the draft permit which is the subject of the hearing, shall be designated as a member of the Agency trial staff;

(2) ``Decisional body'' means any Agency employee who is or may reasonably be expected to be involved in the decisional process of the proceeding including the Administrator, Judicial Officer, Presiding Officer, the Regional Administrator (if he or she does not designate himself or herself as a member of the Agency trial staff), and any of their staff participating in the decisional process. In the case of a nonadversary panel hearing, the decisional body shall also include the panel members, whether or not permanently employed by the Agency;

(3) ``Ex parte communication'' means any communication, written or oral, relating to the merits of the proceeding between the decisional body and an interested person outside the Agency or the Agency trial staff which was not originally filed or stated in the administrative record or in the hearing. Ex parte communications do not include:

(i) Communications between Agency employees other than between the Agency trial staff and the members of the decisional body;

(ii) Discussions between the decisional body and either:

(A) Interested persons outside the Agency, or

(B) The Agency trial staff, if all parties have received prior written notice of the proposed communications and have been given the opportunity to be present and participate therein.

(4) ``Interested person outside the Agency'' includes the permit applicant, any person who filed written comments in the proceeding, any person who requested the hearing, any person who requested to participate or intervene in the hearing, any participant in the hearing and any other interested person not employed by the Agency at the time of the communications, and any attorney of record for those persons.

(b)(1) No interested person outside the Agency or member of the Agency trial staff shall make or knowingly cause to be made to any members of the decisional body, an ex parte communication on the merits of the proceedings.

(2) No member of the decisional body shall make or knowingly cause to be made to any interested person outside the Agency or member of the Agency trial staff, an ex parte communication on the merits of the proceedings.

(3) A member of the decisional body who receives or who makes or who knowingly causes to be made a communication prohibited by this subsection shall file with the Regional Hearing Clerk all written communications or memoranda stating the substance of all oral communications together with all written responses and memoranda stating the substance of all oral responses.

(c) Whenever any member of the decisionmaking body receives an ex parte communication knowingly made or knowingly caused to be made by a party or representative of a party in violation of this section, the person presiding at the stage of the hearing then in progress may, to the extent consistent with justice and the policy of the CWA, require the party to show cause why its claim or interest in the proceedings should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

(d) The prohibitions of this section begin to apply upon issuance of the notice of the grant of a hearing under § 124.77 or § 124.116. This prohibition terminates at the date of final agency action.

[48 FR 14264, Apr. 1, 1983, as amended at 49 FR 38052, Sept. 26, 1984]

§ 124.79 Additional parties and issues.

(a) Any person may submit a request to be admitted as a party within 15 days after the date of mailing, publication, or posting of notice of the grant of an evidentiary hearing, whichever occurs last. The Presiding Officer shall grant requests that meet the requirements of §§ 124.74 and 124.76.

(b) After the expiration of the time prescribed in paragraph (a) of this section any person may file a motion for leave to intervene as a party. This motion must meet the requirements of §§ 124.74 and 124.76 and set forth the grounds for the proposed intervention. No factual or legal issues, besides those raised by timely hearing requests, may be proposed except for good cause. A motion for leave to intervene must also contain a verified statement showing good cause for the failure to file a timely request to be admitted as a party. The Presiding Officer shall grant the motion only upon an express finding on the record that:

(1) Extraordinary circumstances justify granting the motion;

(2) The intervener has consented to be bound by:

(i) Prior written agreements and stipulations by and between the existing parties; and

(ii) All orders previously entered in the proceedings; and

(3) Intervention will not cause undue delay or prejudice the rights of the existing parties.

§ 124.80 Filing and service.

(a) An original and one (1) copy of all written submissions relating to an evidentiary hearing filed after the notice is published shall be filed with the Regional Hearing Clerk.

(b) The party filing any submission shall also serve a copy of each submission upon the Presiding Officer and each party of record. Service shall be by mail or personal delivery.

(c) Every submission shall be accompanied by an acknowledgment of service by the person served or a certificate of service citing the date, place, time, and manner of service and the names of the persons served.

(d) The Regional Hearing Clark shall maintain and furnish a list containing the name, service address, and telephone number of all parties and their attorneys or duly authorized representatives to any person upon request.

§ 124.81 Assignment of Administrative Law Judge.

No later than the date of mailing, publication, or posting of the notice of a grant of an evidentiary hearing, whichever occurs last, the Regional Administrator shall refer the proceeding to the Chief Administrative Law Judge who shall assign an Administrative Law Judge to serve as Presiding Officer for the hearing.

§ 124.82 Consolidation and severance.

(a) The Administrator, Regional Administrator, or Presiding Officer has the discretion to consolidate, in whole or in part, two or more proceedings to be held under this subpart, whenever it appears that a joint hearing on any or all of the matters in issue would expedite or simplify consideration of the issues and that no party would be prejudiced thereby. Consolidation shall not affect the right of any party to raise issues that might have been raised had there been no consolidation.

(b) If the Presiding Officer determines consolidation is not conducive to an expeditious, full, and fair hearing, any party or issues may be severed and heard in a separate proceeding.

§ 124.83 Prehearing conferences.

(a) The Presiding Officer, sua sponte, or at the request of any party, may direct the parties or their attorneys or duly authorized representatives to appear at a specified time and place for one or more conferences before or during a hearing, or to submit written proposals or correspond for the purpose of considering any of the matters set forth in paragraph (c) of this section.

(b) The Presiding Officer shall allow a reasonable period before the hearing begins for the orderly completion of all prehearing procedures and for the submission and disposition of all prehearing motions. Where the circumstances warrant, the Presiding Officer may call a prehearing conference to inquire into the use of available procedures contemplated by the parties and the time required for their completion, to establish a schedule for their completion, and to set a tentative date for beginning the hearing.

(c) In conferences held, or in suggestions submitted, under paragraph (a) of this section, the following matter may be considered:

(1) Simplification, clarification, amplification, or limitation of the issues.

(2) Admission of facts and of the genuineness of documents, and stipulations of facts.

(3) Objections to the introduction into evidence at the hearing of any written testimony, documents, papers, exhibits, or other submissions proposed by a party, except that the administrative record required by § 124.19 shall be received in evidence subject to the provisions of § 124.85(d)(2). At any time before the end of the hearing any party may make, and the Presiding Officer shall consider and rule upon, motions to strike testimony or other evidence other than the administrative record on the grounds of relevance, competency, or materiality.

(4) Matters subject to official notice may be taken.

(5) Scheduling as many of the following as are deemed necessary and proper by the Presiding Officer:

(i) Submission of narrative statements of position on each factual issue in controversy;

(ii) Submission of written testimony and documentary evidence (e.g., affidavits, data, studies, reports, and any other type of written material) in support of those statements; or

(iii) Requests by any party for the production of additional documentation, data, or other information relevant and material to the facts in issue.

(6) Grouping participants with substantially similar interests to eliminate redundant evidence, motions, and objections.

(7) Such other matters that may expedite the hearing or aid in the disposition of the matter.

(d) At a prehearing conference or at some other reasonable time set by the Presiding Officer, each party shall make available to all other parties the names of the expert and other witnesses it expects to call. At its discretion or at the request of the Presiding Officer, a party may include a brief narrative summary of any witness's anticipated testimony. Copies of any written testimony, documents, papers, exhibits, or materials which a party expects to introduce into evidence, and the administrative record required by § 124.18 shall be marked for identification as ordered by the Presiding Officer. Witnesses, proposed written testimony, and other evidence may be added or amended upon order of the Presiding Officer for good cause shown. Agency employees and consultants shall be made available as witnesses by the Agency to the same extent that production of such witnesses is required of other parties under § 124.74(c)(4). (See also § 124.85(b)(16).)

(e) The Presiding Officer shall prepare a written prehearing order reciting the actions taken at each prehearing conference and setting forth the schedule for the hearing, unless a transcript has been taken and accurately reflects these matters. The order shall include a written statement of the areas of factual agreement and disagreement and of the methods and procedures to be used in developing the evidence and the respective duties of the parties in connection therewith. This order shall control the subsequent course of the hearing unless modified by the Presiding Officer for good cause shown.

§ 124.84 Summary determination.

(a) Any party to an evidentiary hearing may move with or without supporting affidavits and briefs for a summary determination in its favor upon any of the issues being adjudicated on the basis that there is no genuine issue of material fact for determination. This motion shall be filed at least 45 days before the date set for the hearing, except that upon good cause shown the motion may be filed at any time before the close of the hearing.

(b) Any other party may, within 30 days after service of the motion, file and serve a response to it or a countermotion for summary determination. When a motion for summary determination is made and supported, a party opposing the motion may not rest upon mere allegations or denials but must show, by affidavit or by other materials subject to consideration by the Presiding Officer, that there is a genuine issue of material fact for determination at the hearing.

(c) Affidavits shall be made on personal knowledge, shall set forth facts that would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein.

(d) The Presiding Officer may set the matter for oral argument and call for the submission of proposed findings, conclusions, briefs, or memoranda of law. The Presiding Officer shall rule on the motion not more than 30 days after the date responses to the motion are filed under paragraph (b) of this section.

(e) If all factual issues are decided by summary determination, no hearing will be held and the Presiding Officer shall prepare an initial decision under § 124.89. If summary determination is denied or if partial summary determination is granted, the Presiding Officer shall issue a memorandum opinion and order, interlocutory in character, and the hearing will proceed on the remaining issues. Appeals from interlocutory rulings are governed by § 124.90.

(f) Should it appear from the affidavits of a party opposing a motion for summary determination that he or she cannot for reasons stated present, by affidavit or otherwise, facts essential to justify his or her opposition, the Presiding Officer may deny the motion or order a continuance to allow additional affidavits or other information to be obtained or may make such other order as is just and proper.

§ 124.85 Hearing procedure.

(a)(1) The permit applicant always bears the burden of persuading the Agency that a permit authorizing pollutants to be discharged should be issued and not denied. This burden does not shift.

Note: In many cases the documents contained in the administrative record, in particular the fact sheet or statement of basis and the response to comments, should adequately discharge this burden.

(2) The Agency has the burden of going forward to present an affirmative case in support of any challenged condition of a final permit.

(3) Any hearing participant who, by raising material issues of fact, contends:

(i) That particular conditions or requirements in the permit are improper or invalid, and who desires either:

(A) The inclusion of new or different conditions or requirements; or

(B) The deletion of those conditions or requirements; or

(ii) That the denial or issuance of a permit is otherwise improper or invalid, shall have the burden of going forward to present an affirmative case at the conclusion of the Agency case on the challenged requirement.

(b) The Presiding Officer shall conduct a fair and impartial hearing, take action to avoid unnecessary delay in the disposition of the proceedings, and maintain order. For these purposes, the Presiding Officer may:

(1) Arrange and issue notice of the date, time, and place of hearings and conferences;

(2) Establish the methods and procedures to be used in the development of the evidence;

(3) Prepare, after considering the views of the participants, written statements of areas of factual disagreement among the participants;

(4) Hold conferences to settle, simplify, determine, or strike any of the issues in a hearing, or to consider other matters that may facilitate the expeditious disposition of the hearing;

(5) Administer oaths and affirmations;

(6) Regulate the course of the hearing and govern the conduct of participants;

(7) Examine witnesses;

(8) Identify and refer issues for interlocutory decision under § 124.90;

(9) Rule on, admit, exclude, or limit evidence;

(10) Establish the time for filing motions, testimony, and other written evidence, briefs, findings, and other submissions;

(11) Rule on motions and other procedural matters pending before him, including but not limited to motions for summary determination in accordance with § 124.84;

(12) Order that the hearing be conducted in stages whenever the number of parties is large or the issues are numerous and complex;

(13) Take any action not inconsistent with the provisions of this subpart for the maintenance of order at the hearing and for the expeditious, fair, and impartial conduct of the proceeding;

(14) Provide for the testimony of opposing witnesses to be heard simultaneously or for such witnesses to meet outside the hearing to resolve or isolate issues or conflicts;

(15) Order that trade secrets be treated as confidential business information in accordance with §§ 122.7 (NPDES) and 270.12 (RCRA) and 40 CFR part 2; and

(16) Allow such cross-examination as may be required for a full and true disclosure of the facts. No cross-examination shall be allowed on questions of policy except to the extent required to disclose the factual basis for permit requirements, or on questions of law, or regarding matters (such as the validity of effluent limitations guidelines) that are not subject to challenge in an evidentiary hearing. No Agency witnesses shall be required to testify or be made available for cross-examination on such matters. In deciding whether or not to allow cross-examination, the Presiding Officer shall consider the likelihood of clarifying or resolving a disputed issue of material fact compared to other available methods. The party seeking cross-examination has the burden of demonstrating that this standard has been met.

(c) All direct and rebuttal evidence at an evidentiary hearing shall be submitted in written form, unless, upon motion and good cause shown, the Presiding Officer determines that oral presentation of the evidence on any particular fact will materially assist in the efficient identification and clarification of the issues. Written testimony shall be prepared in narrative form.

(d)(1) The Presiding Officer shall admit all relevant, competent, and material evidence, except evidence that is unduly repetitious. Evidence may be received at any hearing even though inadmissible under the rules of evidence applicable to judicial proceedings. The weight to be given evidence shall be determined by its reliability and probative value.

(2) The administrative record required by § 124.18 shall be admitted and received in evidence. Upon motion by any party the Presiding Officer may direct that a witness be provided to sponsor a portion or portions of the administrative record. The Presiding Officer, upon finding that the standards in § 124.85(b)(3) have been met, shall direct the appropriate party to produce the witness for cross-examination. If a sponsoring witness cannot be provided, the Presiding Officer may reduce the weight accorded the appropriate portion of the record.

Note: Receiving the administrative record into evidence automatically serves several purposes: (1) It documents the prior course of the proceedings; (2) it provides a record of the views of affected persons for consideration by the agency decisionmaker; and (3) it provides factual material for use by the decisionmaker.

(3) Whenever any evidence or testimony is excluded by the Presiding Officer as inadmissible, all such evidence or testimony existing in written form shall remain a part of the record as an offer of proof. The party seeking the admission of oral testimony may make an offer of proof, by means of a brief statement on the record describing the testimony excluded.

(4) When two or more parties have substantially similar interests and positions, the Presiding Officer may limit the number of attorneys or other party representatives who will be permitted to cross-examine and to make and argue motions and objections on behalf of those parties. Attorneys may, however, engage in cross-examination relevant to matters not adequately covered by previous cross-examination.

(5) Rulings of the Presiding Officer on the admissibility of evidence or testimony, the propriety of cross-examination, and other procedural matters shall appear in the record and shall control further proceedings, unless reversed as a result of an interlocutory appeal taken under § 124.90.

(6) All objections shall be made promptly or be deemed waived. Parties shall be presumed to have taken exception to an adverse ruling. No objection shall be deemed waived by further participation in the hearing.

(e) Admission of evidence on environmental impacts. If a hearing is granted under this subpart for a new source subject to NEPA, the Presiding Officer may admit evidence relevant to any environmental impacts of the permitted facility if the evidence would be relevant to the Agency's obligation under § 122.29(c)(3). If the source holds a final EPA-issued RCRA, PSD, or UIC permit, or an ocean dumping permit under the Marine Protection, Research, and Sanctuaries Act (MPRSA), no such evidence shall be admitted nor shall cross-examination be allowed relating to:

(1) Effects on air quality, (2) effects attributable to underground injection or hazardous waste management practices, or (3) effects of ocean dumping subject to the MPRSA, which were considered or could have been considered in the PSD, RCRA, UIC, or MPRSA permit issuance proceedings. However, the presiding officer may admit without cross-examination or any supporting witness relevant portions of the record of PSD, RCRA, UIC, or MPRSA permit issuance proceedings.

[48 FR 14264, Apr. 1, 1983, as amended at 49 FR 38052, Sept. 26, 1984]

§ 124.86 Motions.

(a) Any party may file a motion (including a motion to dismiss a particular claim on a contested issue) with the Presiding Officer on any matter relating to the proceeding. All motions shall be in writing and served as provided in § 124.80 except those made on the record during an oral hearing before the Presiding Officer.

(b) Within 10 days after service of any written motion, any part to the proceeding may file a response to the motion. The time for response may be shortened to 3 days or extended for an additional 10 days by the Presiding Officer for good cause shown.

(c) Notwithstanding § 122.4, any party may file with the Presiding Officer a motion seeking to apply to the permit any regulatory or statutory provision issued or made available after the issuance of the permit under § 124.15. The Presiding Officer shall grant any motion to apply a new statutory provision unless he or she finds it contrary to legislative intent. The Presiding Officer may grant a motion to apply a new regulatory requirement when appropriate to carry out the purpose of CWA, and when no party would be unduly prejudiced thereby.

§ 124.87 Record of hearings.

(a) All orders issued by the Presiding Officer, transcripts of oral hearings or arguments, written statements of position, written direct and rebuttal testimony, and any other data, studies, reports, documentation, information and other written material of any kind submitted in the proceeding shall be a part of the hearing record and shall be available to the public except as provided in §§ 122.7 (NPDES) and 270.12 (RCRA), in the Office of the Regional Hearing Clerk, as soon as it is received in that office.

(b) Evidentiary hearings shall be either stenographically reported verbatim or tape recorded, and thereupon transcribed. After the hearing, the reporter shall certify and file with the Regional Hearing Clerk:

(1) The original of the transcript, and

(2) The exhibits received or offered into evidence at the hearing.

(c) The Regional Hearing Clerk shall promptly notify each of the parties of the filing of the certified transcript of proceedings. Any party who desires a copy of the transcript of the hearing may obtain a copy of the hearing transcript from the Regional Hearing Clerk upon payment of costs.

(d) The Presiding Officer shall allow witnesses, parties, and their counsel an opportunity to submit such written proposed corrections of the transcript of any oral testimony taken at the hearing, pointing out errors that may have been made in transcribing the testimony, as are required to make the transcript conform to the testimony. Except in unusual cases, no more than 30 days shall be allowed for submitting such corrections from the day a complete transcript of the hearing becomes available.

§ 124.88 Proposed findings of fact and conclusions; brief.

Within 45 days after the certified transcript is filed, any party may file with the Regional Hearing Clerk proposed findings of fact and conclusions of law and a brief in support thereof. Briefs shall contain appropriate references to the record. A copy of these findings, conclusions, and brief shall be served upon all the other parties and the Presiding Officer. The Presiding Officer, for good cause shown, may extend the time for filing the proposed findings and conclusions and/or the brief. The Presiding Officer may allow reply briefs.

§ 124.89 Decisions.

(a) The Presiding Officer shall review and evaluate the record, including the proposed findings and conclusions, any briefs filed by the parties, and any interlocutory decisions under § 124.90 and shall issue and file his initial decision with the Regional Hearing Clerk. The Regional Hearing Clerk shall immediately serve copies of the initial decision upon all parties (or their counsel of record) and the Administrator.

(b) The initial decision of the Presiding Officer shall automatically become the final decision 30 days after its service unless within that time:

(1) A party files a petition for review by the Administrator pursuant to § 124.91; or

(2) The Administrator sua sponte files a notice that he or she will review the decision pursuant to § 124.91.

§ 124.90 Interlocutory appeal.

(a) Except as provided in this section, appeals to the Administrator may be taken only under § 124.91. Appeals from orders or rulings may be taken under this section only if the Presiding Officer, upon motion of a party, certifies those orders or rulings to the Administrator for appeal on the record. Requests to the Presiding Officer for certification must be filed in writing within 10 days of service of notice of the order, ruling, or decision and shall state briefly the grounds relied on.

(b) The Presiding Officer may certify an order or ruling for appeal to the Administrator if:

(1) The order or ruling involves an important question on which there is substantial ground for difference of opinion, and

(2) Either: (i) An immediate appeal of the order or ruling will materially advance the ultimate completion of the proceeding; or

(ii) A review after the final order is issued will be inadequate or ineffective.

(c) If the Administrator decides that certification was improperly granted, he or she shall decline to hear the appeal. The Administrator shall accept or decline all interlocutory appeals within 30 days of their

submission; if the Administrator takes no action within that time, the appeal shall be automatically dismissed. When the Presiding Officer declines to certify an order or ruling to the Administrator for an interlocutory appeal, it may be reviewed by the Administrator only upon appeal from the initial decision of the Presiding Officer, except when the Administrator determines, upon motion of a party and in exceptional circumstances, that to delay review would not be in the public interest. Such motion shall be made within 5 days after receipt of notification that the Presiding Officer has refused to certify an order or ruling for interlocutory appeal to the Administrator. Ordinarily, the interlocutory appeal will be decided on the basis of the submissions made to the Presiding Officer. The Administrator may, however, allow briefs and oral argument.

(d) In exceptional circumstances, the Presiding Officer may stay the proceeding pending a decision by the Administrator upon an order or ruling certified by the Presiding Officer for an interlocutory appeal, or upon the denial of such certification by the Presiding Officer.

(e) The failure to request an interlocutory appeal shall not prevent taking exception to an order or ruling in an appeal under § 124.91.

§ 124.91 Appeal to the Administrator.

(a)(1) Within 30 days after service of an initial decision, or a denial in whole or in part of a request for an evidentiary hearing, any party or requestar, as the case may be, may appeal any matter set forth in the initial decision or denial, or any adverse order or ruling to which the party objected during the hearing, by filing with the Administrator notice of appeal and petition for review. The petition shall include a statement of the supporting reasons and, when appropriate, a showing that the initial decision contains:

(i) A finding of fact or conclusion of law which is clearly erroneous, or

(ii) An exercise of discretion or policy which is important and which the Administrator should review.

(2) Within 15 days after service of a petition for review under paragraph (c)(1) of this section, any other party to the proceeding may file a responsive petition.

(3) Policy decisions made or legal conclusions drawn in the course of denying a request for an evidentiary hearing may be reviewed and changed by the Administrator in an appeal under this section.

(b) Within 30 days of an initial decision or denial or a request for an evidentiary hearing the Administrator may, sua sponte, review such decision. Within 7 days after the Administrator has decided under this section to review an initial decision or the denial of a request for an evidentiary hearing, notice of that decision shall be served by mail upon all affected parties and the Regional Administrator.

(c)(1) Within a reasonable time following the filing of the petition for review, the Administrator shall issue an order either granting or denying the petition for review. When the Administrator grants a petition for review or determines under paragraph (b) of this section to review a decision, the Administrator may notify the parties that only certain issues shall be briefed.

(2) Upon granting a petition for review, the Regional Hearing Clerk shall promptly forward a copy of the record to the Judicial Officer and shall retain a complete duplicate copy of the record in the Regional Office.

(d) Notwithstanding the grant of a petition for review or a determination under paragraph (b) of this section to review a decision, the Administrator may summarily affirm without opinion and initial decision or the denial of a request for an evidentiary hearing.

(e) A petition to the Administrator under paragraph (a) of this section for review of any initial decision or the denial of an evidentiary hearing is, under 5 U.S.C. 704, a prerequisite to the seeking of judicial review of the final decision of the Agency.

(f) If a party timely files a petition for review or if the Administrator sua sponte orders review, then, for purposes of judicial review, final Agency action on an issue occurs as follows:

(1) If the Administrator denies review or summarily affirms without opinion as provided in § 124.91(d), then the initial decision or denial becomes the final Agency action and occurs upon the service of notice of the Administrator's action.

(2) If the Administrator issues a decision without remanding the proceeding then the final permit, redrafted as required by the Administrator's original decision, shall be reissued and served upon all parties to the appeal.

(3) If the Administrator issues a decision remanding the proceeding, then final Agency action occurs upon completion of the remanded proceeding, including any appeals to the Administrator from the results of the remanded proceeding.

(g) The petitioner may file a brief in support of the petition within 21 days after the Administrator has granted a petition for review. Any other party may file a responsive brief within 21 days of service of the petitioner's brief. The petitioner then may file a reply brief within 14 days of service of the responsive brief. Any person may file an amicus brief for the consideration of the Administrator within the same time periods that govern reply briefs. If the Administrator determines, sua sponte, to review an initial Regional Administrator's decision or the denial of a request for an evidentiary hearing, the Administrator shall notify the parties of the schedule for filing briefs.

(h) Review by the Administrator of an initial decision or the denial of an evidentiary hearing shall be limited to the issues specified under paragraph (a) of this section, except that after notice to all parties, the Administrator may raise and decide other matters which he or she considers material on the basis of the record.

Subpart F -- Non-Adversary Panel Procedures

§ 124.111 Applicability.

(a) Except as set forth in this subpart, this subpart applies in lieu of, and to complete exclusion of, subparts A through E in the following cases:

(1)(i) In any proceedings for the issuance of any NPDES permit under CWA sections 402 and 405(f) which constitute ``initial licensing'' under the Administrative Procedure Act, when the Regional Administrator elects to apply this subpart and explicitly so states in the public notice of the draft permit under § 124.10 or in a supplemental notice under § 124.14. If an NPDES draft permit is processed under this subpart, any other draft permits which have been consolidated with the NPDES draft permit under § 124.4 shall likewise be processed under this subpart, except for PSD permits when the Regional Administrator makes a finding under § 124.4(e) that consolidation would be likely to result in missing the one year statutory deadline for issuing a final PSD permit under the CAA.

(ii) ``Initial licensing'' includes both the first decision on an NPDES permit applied for by a discharger that has not previously held one and the first decision on any variance requested by a discharger.

(iii) To the extent this subpart is used to process a request for a variance under CWA section 301(h), the term ``Administrator or a person designated by the Administrator'' shall be substituted for the term ``Regional Administrator''.

(2) In any proceeding for which a hearing under this subpart was granted under § 124.75 following a request for a formal hearing under § 124.74. See §§ 124.74(c)(8) and 124.75(a)(2).

(3) Whenever the Regional Administrator determines as a matter of discretion that the more formalized mechanisms of this subpart should be used to process draft NPDES general permits (for which evidentiary hearings are unavailable under § 124.71), or draft RCRA or draft UIC permits.

(b) EPA shall not apply these procedures to a decision on a variance where subpart E proceedings are simultaneously pending on the other conditions of the permit. See § 124.64(b).

[48 FR 14264, Apr. 1, 1983, as amended at 54 FR 18786, May 2, 1989]

§ 124.112 Relation to other subparts.

The following provisions of subparts A through E apply to proceedings under this subpart:

(a)(1) Sections 124.1 through 124.10.

(2) Section 124.14 ``Reopening of comment period.''

(3) Section 124.16 ``Stays of contested permit conditions.''

(4) Section 124.20 ``Computation of time.''

(b)(1) Section 124.41 ``Definitions applicable to PSD Permits.''

(2) Section 124.42 ``Additional procedures for PSD permits affecting Class I Areas.''

(c)(1) Sections 124.51 through 124.56.

(2) Section 124.57(c) ``Public notice.''

(3) Sections 124.58 through 124.66.

(d)(1) Section 124.72 ``Definitions,'' except for the definition of ``Presiding Officer,'' see section 124.119.

(2) Section 124.73 ``Filing.''

(3) Section 124.78 ``Ex parte communications.''

(4) Section 124.80 ``Filing and service.''

(5) Section 124.85(a) (Burden of proof).

(6) Section 124.86 ``Motions.''

(7) Section 124.87 ``Record of hearings.''

(8) Section 124.90 ``Interlocutory appeal.''

(e) In the case of permits to which this subpart is made applicable after a final permit has been issued under § 124.15, either by the grant under § 124.75 of a hearing request under § 124.74, or by notice of supplemental proceedings under § 124.14, §§ 124.13 and 124.76 shall also apply.

§ 124.113 Public notice of draft permits and public comment period.

Public notice of a draft permit under this subpart shall be given as provided in §§ 124.10 and 124.57. At the discretion of the Regional Administrator, the public comment period specified in this notice may include an opportunity for a public hearing under § 124.12.

§ 124.114 Request for hearing.

(a) By the close of the comment period under § 124.113, any person may request the Regional Administrator to hold a panel hearing on the draft permit by submitting a written request containing the following:

(1) A brief statement of the interest of the person requesting the hearing;

(2) A statement of any objections to the draft permit;

(3) A statement of the issues which such person proposes to raise for consideration at the hearing; and

(4) Statements meeting the requirements of § 124.74(c)(1)-(5).

(b) Whenever (1) a written request satisfying the requirements of paragraph (a) of this section has been received and presents genuine issues of material fact, or (2) the Regional Administrator determines sua sponte that a hearing under this subpart is necessary or appropriate, the Regional Administrator shall notify each person requesting the hearing and the applicant, and shall provide public notice under § 124.57(c). If the Regional Administrator determines that a request does not meet the requirements of paragraph (a) of this section or does not present genuine issues of fact, the Regional Administrator may deny the request for the hearing and shall serve written notice of that determination on all persons requesting the hearing.

(c) The Regional Administrator may also decide before a draft permit is prepared under § 124.6 that a hearing should be held under this section. In such cases, the public notice of the draft permit shall explicitly so state and shall contain the information required by § 124.57(c). This notice may also provide for a hearing under § 124.12 before a hearing is conducted under this section.

§ 124.115 Effect of denial of or absence of request for hearing.

If no request for a hearing is made under § 124.114, or if all such requests are denied under that section, the Regional Administrator shall then prepare a recommended decision under § 124.124. Any person whose hearing request has been denied may then appeal that recommended decision to the Administrator as provided in § 124.91.

§ 124.116 Notice of hearing.

(a) Upon granting a request for a hearing under § 124.114 the Regional Administrator shall promptly publish a notice of the hearing as required under § 124.57(c). The mailed notice shall include a statement which indicates whether the Presiding Officer or the Regional Administrator will issue the Recommended decision. The mailed notice shall also allow the participants at least 30 days to submit written comments as provided under § 124.118.

(b) The Regional Administrator may also give notice of a hearing under this section at the same time as notice of a draft permit under § 124.113. In that case the comment periods under §§ 124.113 and 124.118 shall be merged and held as a single public comment period.

(c) The Regional Administrator may also give notice of hearing under this section in response to a hearing request under § 124.74 as provided in § 124.75.

§ 124.117 Request to participate in hearing.

(a) Persons desiring to participate in any hearing noticed under this section, shall file a request to participate with the Regional Hearing Clerk before the deadline set forth in the notice of the grant of the hearing. Any person filing such a request becomes a party to the proceedings within the meaning of the Administrative Procedure Act. The request shall include:

(1) A brief statement of the interest of the person in the proceeding;

(2) A brief outline of the points to be addressed;

(3) An estimate of the time required; and

(4) The requirements of § 124.74(c)(1)-(5).

(5) If the request is submitted by an organization, a nonbinding list of the persons to take part in the presentation.

(b) As soon as practicable, but in no event later than 2 weeks before the scheduled date of the hearing, the Presiding Officer shall make a hearing schedule available to the public and shall mail it to each person who requested to participate in the hearing.

§ 124.118 Submissiom of written comments on draft permit.

(a) No later than 30 days before the scheduled start of the hearing (or such other date as may be set forth in the notice of hearing), each party shall file all of its comments on the draft permit, based on information in the administrative record and any other information which is or reasonably could have been available to that party. All comments shall include any affidavits, studies, data, tests, or other materials relied upon for making any factual statements in the comments.

(b)(1) Written comments filed under paragraph (a) of this section shall constitute the bulk of the evidence submitted at the hearing. Oral statements at the hearing should be brief and in the nature of argument. They shall be restricted either to points that could not have been made in written comments, or to emphasize points which are made in the comments, but which the party believes can more effectively be argued in the hearing context.

(2) Notwithstanding the foregoing, within two weeks prior to the deadline specified in paragraph (a) of this section for the filing of comments, any party may move to submit all or part of its comments orally at the hearing in lieu of submitting written comments and the Presiding Officer shall, within one week, grant such motion if the Presiding Officer finds that the party will be prejudiced if required to submit the comments in written form.

(c) Parties to any hearing may submit written material in response to the comments filed by other parties under paragraph (a) of this section at the time they appear at the panel stage of the hearing under § 124.120.

§ 124.119 Presiding Officer.

(a)(1)(i) Before giving notice of a hearing under this subpart in a proceeding involving an NPDES permit, the Regional Administrator shall request that the Chief Administrative Law Judge assign an Administrative Law Judge as the Presiding Officer. The Chief Administrative Law Judge shall then make the assignment.

(ii) If all parties to such a hearing waive in writing their statutory right to have an Administrative Law Judge named as the Presiding Officer in a hearing subject to this subparagraph the Regional Administrator may name a Presiding Officer under paragraph (a)(2)(ii) of this section.

(2) Before giving notice of a hearing under this subpart in a proceeding which does not involve an NPDES permit or a RCRA permit termination, the Regional Administrator shall either:

(i) Request that the Chief Administrative Law Judge assign an Administrative Law Judge as the Presiding Officer. The Chief Administrative Law Judge may thereupon make such an assignment if he concludes that the other duties of his office allow, or

(ii) Name a lawyer permanently or temporarily employed by the Agency and without prior connection with the proceeding to serve as Presiding Officer;

(iii) If the Chief Administrative Law Judge declines to name an Administrative Law Judge as Presiding Officer upon receiving a request under paragraph (a)(2)(i) of this section, the Regional Administrator shall name a Presiding Officer under paragraph (a)(2)(ii) of this section.

(b) It shall be the duty of the Presiding Officer to conduct a fair and impartial hearing. The Presiding Officer shall have the authority:

(1) Conferred by § 124.85(b)(1)-(15), § 124.83 (b) and (c), and;

(2) To receive relevant evidence, provided that all comments under §§ 124.113 and 124.118, the record of the panel hearing under § 124.120, and the administrative record, as defined in § 124.9 or in § 124.18 as the case may be shall be received in evidence, and

(3) Either upon motion or sua sponte, to change the date of the hearing under § 124.120, or to recess such a hearing until a future date. In any such case the notice required by § 124.10 shall be given.

(c) Whenever a panel hearing will be held on an individual draft NPDES permit for a source which does not have an existing permit, the Presiding Officer, on motion by the source, may issue an order authorizing it to begin discharging if it complies with all conditions of the draft permit or such other conditions as may be imposed by the Presiding Officer in consultation with the panel. The motion shall be granted if no party opposes it, or if the source demonstrates that:

(1) It is likely to receive a permit to discharge at that site;

(2) The environment will not be irreparably harmed if the source is allowed to begin discharging in compliance with the conditions of the Presiding Officer's order pending final agency action; and

(3) Its discharge pending final agency action is in the public interest.

(d) If for any offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig which has never received a finally effective permit to discharge at a ``site,'' but which is not a ``new discharger'' or ``new source,'' the Regional Administrator finds that compliance with certain permit conditions may be necessary to avoid irreparable environmental harm during the nonadversary panel procedures, he may specify in the statement of basis or fact sheet that those conditions, even if contested, shall remain enforceable obligations of the discharger during administrative review unless otherwise modified by the Presiding Officer under paragraph (c) of this section.

(Clean Water Act (33 U.S.C. 1251 et seq.), Safe Drinking Water Act (42 U.S.C. 300f et seq.), Clean Air Act (42 U.S.C. 7401 et seq.), Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.))

[48 FR 14264, Apr. 1, 1983, as amended at 48 FR 39620, Sept. 1, 1983]

§ 124.120 Panel hearing.

(a) A Presiding Officer shall preside at each hearing held under this subpart. An EPA panel shall also take part in the hearing. The panel shall consist of three or more EPA temporary or permanent employees having special expertise or responsibility in areas related to the hearing issue, none of whom shall have taken part in formulating the draft permit. If appropriate for the evaluation of new or different issues presented at the hearing, the panel membership, at the discretion of the Regional Administrator, may change or may include persons not employed by EPA.

(b) At the time of the hearing notice under § 124.116, the Regional Administrator shall designate the persons who shall serve as panel members for the hearing and the Regional Administrator shall file with the

Regional Hearing Clerk the name and address of each person so designated. The Regional Administrator may also designate EPA employees who will provide staff support to the panel but who may or may not serve as panel members. The designated persons shall be subject to the ex parte rules in § 124.78. The Regional Administrator may also designate Agency trial staff as defined in § 124.78 for the hearing.

(c) At any time before the close of the hearing the Presiding Officer, after consultation with the panel, may request that any person having knowledge concerning the issues raised in the hearing and not then scheduled to participate therein appear and testify at the hearing.

(d) The panel members may question any person participating in the panel hearing. Cross-examination by persons other than panel members shall not be permitted at this stage of the proceeding except when the Presiding Officer determines, after consultation with the panel, that the cross-examination would expedite consideration of the issues. However, the parties may submit written questions to the Presiding Officer for the Presiding Officer to ask the participants, and the Presiding Officer may, after consultation with the panel, and at his or her sole discretion, ask these questions.

(e) At any time before the close of the hearing, any party may submit to the Presiding Officer written questions specifically directed to any person appearing or testifying in the hearing. The Presiding Officer, after consultation with the panel may, at his sole discretion, ask the written question so submitted.

(f) Within 10 days after the close of the hearing, any party shall submit such additional written testimony, affidavits, information, or material as they consider relevant or which the panel may request. These additional submissions shall be filed with the Regional Hearing Clerk and shall be a part of the hearing record.

[48 FR 14264, Apr. 1, 1983, as amended at 49 FR 38052, Sept. 26, 1984]

§ 124.121 Opportunity for cross-examination.

(a) Any party to a panel hearing may submit a written request to cross-examine any issue of material fact. The motion shall be submitted to the Presiding Officer within 15 days after a full transcript of the panel hearing is filed with the Regional Hearing Clerk and shall specify:

(1) The disputed issue(s) of material fact. This shall include an explanation of why the questions at issue are factual, the extent to which they are in dispute in light of the then existing record, and the extent to which they are material to the decision on the application; and

(2) The person(s) to be cross-examined, and an estimate of the time necessary to conduct the cross-examination. This shall include a statement explaining how the cross-examination will resolve the disputed issues of material fact.

(b) After receipt of all motions for cross-examination under paragraph (a) of this section, the Presiding Officer, after consultation with the hearing panel, shall promptly issue an order either granting or denying each request. No cross-examination shall be allowed on questions of policy except to the extent required to disclose the factual basis for permit requirements, or on questions of law, or regarding matters (such as the validity of effluent limitations guidelines) that are not subject to challenge in permit issuance proceedings. Orders granting requests for cross-examination shall be served on all parties and shall specify:

(1) The issues on which cross-examination is granted;

(2) The persons to be cross-examined on each issue;

(3) The persons allowed to conduct cross-examination;

(4) Time limits for the examination of witnesses by each cross-examiner; and

(5) The date, time, and place of the supplementary hearing at which cross-examination shall take place.

(6) In issuing this order, the Presiding Officer may determine that two or more parties have the same or similar interests and that to prevent unduly repetitious cross-examination, they should be required to choose a single representative for purposes of cross-examination. In that case, the order shall simply assign time for cross-examination without further identifying the representative. If the designated parties fail to choose a single representative, the Presiding Officer may divide the assigned time among the representatives or issue any other order which justice may require.

(c) [Reserved]

Figure 2 sets forth the general procedure to be followed where these subpart F procedures have been made applicable to a permit from the beginning.

Both flow charts outline a sequence of events directed by arrows. The boxes set forth elements of the permit process; and the diamonds indicate key decisionmaking points in the permit process.

The charts are discussed in more detail below.

Figure 1 -- Conventional EPA Permitting Procedures

This chart outlines the procedures for issuing permits whenever EPA does not make use of the special ``panel hearing'' procedures in subpart F. The major steps depicted on this chart are as follows:

1. The permit process can begin in any one of the following ways:

a. Normally, the process will begin when a person applies for a permit under §§ 122.21 (NPDES), 144.31 (UIC), 233.4 (404), and 270.10 (RCRA) and 124.3.

b. In other cases, EPA may decide to take action on its own initiative to change a permit or to issue a general permit. This leads directly to preparation of a draft permit under § 124.6.

c. In addition, the permittee or any interested person (other than for PSD permits) may request modificiation, revocation and reissuance or termination of a permit under §§ 122.62, 122.64 (NPDES), 144.39, 144.40 (UIC), 233.14, 233.15, (404), 270.41, 270.43 (RCRA), and 124.5.

Those requests can be handled in either of two ways:

i. EPA may tentatively decide to grant the request and issue a new draft permit for public comment, either with or without requiring a new application.

ii. If the request is denied, an informal appeal to the Administrator is available.

2. The next major step in the permit process is the preparation of a draft permit. As the chart indicates, preparing a draft permit also requires preparation of either a statement of basis (§ 124.7), a fact sheet (§ 124.5) or, compilation of an ``administrative record'' (§ 124.9), and public notice (§ 124.10).

3. The next stage is the public comment period (§ 124.11). A public hearing under § 124.12 may be requested before the close of the public comment period.

EPA has the discretion to hold a public hearing, even if there were no requests during the public comment period. If EPA decides to schedule one, the public comment period will be extended through the close of the hearing. EPA also has the discretion to conduct the public hearing under subpart F panel procedures. (See Figure 2.)

The regulations provide that all arguments and factual materials that a person wishes EPA to consider in connection with a particular permit must be placed in the record by the close of the public comment period (§ 124.13).

4. Section 124.14 states that EPA, at any time before issuing a final permit decision may decide to either reopen or extend the comment period, prepare a new draft permit and begin the process again from that point, or for RCRA and UIC permits, or for NPDES permits that constitute ``initial licensing'', to begin ``panel hearing'' proceedings under subpart F. These various results are shown schematically.

5. The public comment period and any public hearing will be followed by issuance of a final permit decision (§ 124.15). As the chart shows, the final permit must be accompanied by a response to comments (§ 124.17) and be based on the administrative record (§ 124.18).

6. After the final permit is issued, it may be appealed to higher agency authority. The exact form of the appeal depends on the type of permit involved.

a. RCRA, UIC or PSD permits standing alone will be appealed directly to the Administrator under § 124.19.

b. NPDES permits which do not involve ``initial licensing'' may be appealed in an evidentiary hearing under subpart E. The regulations provide (§ 124.74) that if such a hearing is granted for an NPDES permit and if RCRA or UIC permits have been consolidated with that permit under § 124.4 then closely related conditions of

those RCRA or UIC permits may be reexamined in an evidentiary hearing. PSD permits, however, may never be reexamined in a subpart E hearing.

c. NPDES permits which do involve ``initial licensing'' may be appealed in a panel hearing under subpart F. The regulations provide that if such a hearing is granted for an NPDES permit, consolidated RCRA, UIC, or PSD permits may also be reexamined in the same proceeding.

As discussed below, this is only one of several ways the panel hearing procedures may be used under these regulations.

7. This chart does not show EPA appeal procedures in detail. Procedures for appeal to the Administrator under § 124.19 are self-explanatory; subpart F procedures are diagrammed in Figure 2; and subpart E procedures are basically the same that would apply in any evidentiary hearing.

However, the chart at this stage does reflect the provisions of § 124.60(b), which allows EPA, even after a formal hearing has begun, to ``recycle'' a permit back to the draft permit stage at any time before that hearing has resulted in an initial decision.

Figure 2 -- Non-Adversary Panel Procedures

This chart outlines the procedures for processing permits under the special ``panel hearing'' procedures of subpart F. These procedures were designed for making decisions that involve ``initial licensing'' NPDES permits. Those permits include the first decisions on an NPDES permit applied for by any discharger that has not previously held one, and the first decision on any statutory variance. In addition, these procedures will be used for any RCRA, UIC, or PSD permit which has been consolidated with such an NPDES permit, and may be used, if the Regional Administrator so chooses, for the issuance of individual RCRA or UIC permits. The steps depicted on this chart are as follows:

1. Application for a permit. These proceedings will generally begin with an application, since NPDES initial licensing always will begin with an application.

2. Preparation of a draft permit. This is identical to the similar step in Figure 1.

3. Public comment period. This again is identical to the similar step in Figure 1. The Regional Administrator has the opportunity to schedule an informal public hearing under § 124.12 during this period.

4. Requests for a panel hearing must be received by the end of the public comment period under § 124.113. See § 124.114.

If a hearing request is denied, or if no hearing requests are received, a recommended decision will be issued based on the comments received. The recommended decision may then be appealed to the Administrator. See § 124.115.

5. If a hearing is granted, notice of the hearing will be published in accordance with § 124.116 and will be followed by a second comment period during which requests to participate and the bulk of the remaining evidence for the final decision will be received (§§ 124.117 and 124.118).

The regulations also allow EPA to move directly to this stage by scheduling a hearing when the draft permit is prepared. In such cases the comment period on the draft permit under § 124.113 and the prehearing comment period under § 124.118 would occur at the same time. EPA anticipates that this will be the more frequent practice when permits are processed under panel procedures.

This is also a stage at which EPA can switch from the conventional procedures diagramed in Figure 1 to the panel hearing procedures. As the chart indicates, EPA would do this by scheduling a panel hearing either through use of the ``recycle'' provision in § 124.14 or in response to a request for a formal hearing under § 124.74.

6. After the close of the comment period, a panel hearing will be held under § 124.120, followed by any cross-examination granted under § 124.121. The recommended decision will then be prepared (§ 124.124) and an opportunity for appeal provided under § 124.125. A final decision will be issued after appeal proceedings, if any, are concluded.

(d) The Presiding Officer and, to the extent possible, the members of the hearing panel shall be present at the supplementary hearing. During the course of the hearing, the Presiding Officer shall have authority to modify any order issued under paragraph (b) of this section. A record will be made under § 124.87.

(e)(1) No later than the time set for requesting cross-examination, a party may request that alternative methods of clarifying the record (such as the submission of additional written information) be used in lieu of or in addition to cross-examination. The Presiding Officer shall issue an order granting or denying this request at the time he or she issues (or would have issued) an order granting or denying a request for cross-examination, under paragraph (b) of this section. If the request for an alternative method is granted, the order shall specify the alternative and any other relevant information (such as the due date for submitting written information).

(2) In passing on any request for cross-examination submitted under paragraph (a) of this section, the Presiding Officer may, as a precondition to ruling on the merits of the request, require alternative means of clarifying the record to be used whether or not a request to do so has been made. The party requesting cross-examination shall have one week to comment on the results of using the alternative method. After considering these comments the Presiding Officer shall issue an order granting or denying the request for cross-examination.

(f) The provisions of §§ 124.85(d)(2) and 124.84(e) apply to proceedings under this subpart.

[48 FR 14264, Apr. 1, 1983, as amended at 49 FR 38052, Sept. 26, 1984]

§ 124.122 Record for final permit.

The record on which the final permit shall be based in any proceeding under this subpart consists of:

(a) The administrative record compiled under § 124.9 or § 124.18 as the case may be;

(b) Any material submitted under § 124.78 relating to ex parte contacts;

(c) All notices issued under § 124.113;

(d) All requests for hearings, and rulings on those requests, received or issued under § 124.114;

(e) Any notice of hearing issued under § 124.116;

(f) Any request to participate in the hearing received under § 124.117;

(g) All comments submitted under § 124.118, any motions made under that section and the rulings on them, and any comments filed under § 124.113;

(h) The full transcript and other material received into the record of the panel hearing under § 124.120;

(i) Any motions for, or rulings on, cross-examination filed or issued under § 124.121;

(j) Any motions for, orders for, and the results of, any alternatives to cross-examination under § 124.121; and

(k) The full transcript of any cross-examination held.

§ 124.123 Filing of brief, proposed findings of fact and conclusions of law and proposed modified permit.

Unless otherwise ordered by the Presiding Officer, each party may, within 20 days after all requests for cross-examination are denied or after a transcript of the full hearing including any cross-examination becomes available, submit proposed findings of fact; conclusions regarding material issues of law, fact, or discretion; a proposed modified permit (if such person is urging that the draft or final permit be modified); and a brief in support thereof; together with references to relevant pages of transcript and to relevant exhibits. Within 10 days thereafter each party may file a reply brief concerning matters contained in opposing briefs and containing alternative findings of fact; conclusions regarding material issues of law, fact, or discretion; and a proposed modified permit where appropriate. Oral argument may be held at the discretion of the Presiding Officer on motion of any party or sua sponte.

§ 124.124 Recommended decision.

The person named to prepare the decision shall, as soon as practicable after the conclusion of the hearing, evaluate the record of the hearing and prepare and file a recommended decision with the Regional Hearing Clerk. That person may consult with, and receive assistance from, any member of the hearing panel in drafting the recommended decision, and may delegate the preparation of the recommended decision to the panel or to any member or members of it. This decision shall contain findings of fact, conclusions regarding all material issues of law, and a recommendation as to whether and in what respect the draft or final permit should be modified. After the recommended decision has been filed, the Regional Hearing Clerk shall serve a copy of that decision on each party and upon the Administrator.

§ 124.125 Appeal from or review of recommended decision.

(a)(1) Within 30 days after service of the recommended decision, any party may take exception to any matter set forth in that decision or to any adverse order or ruling of the Presiding Officer to which that party objected, and may appeal those exceptions to the Administrator as provided in § 124.91, except that references to ``initial decision'' will mean recommended decision under § 124.124.

§ 124.126 Final decision.

As soon as practicable after all appeal proceedings have been completed, the Administrator shall issue a final decision. That final decision shall include findings of fact; conclusions regarding material issue of law, fact, or discretion, as well as reasons therefore; and a modified permit to the extent appropriate. It may accept or reject all or part of the recommended decision. The Administrator may delegate some or all of the work of preparing this decision to a person or persons without substantial prior connection with the matter. The Administrator or his or her designee may consult with the Presiding Officer, members of the hearing panel, or any other EPA employee other than members of the Agency Trial Staff under § 124.78 in preparing the final decision. The Hearing Clerk shall file a copy of the decision on all parties.

§ 124.127 Final decision if there is no review.

If no party appeals a recommended decision to the Administrator, and if the Administrator does not elect to review it, the recommended decision becomes the final decision of the Agency upon the expiration of the time for filing any appeals.

§ 124.128 Delegation of authority; time limitations.

(a) The Administrator may delegate to a Judicial Officer any or all of his or her authority under this subpart.

(b) The failure of the Administrator, Regional Administrator, or Presiding Officer to do any act within the time periods specified under this part shall not waive or diminish any right, power, or authority of the United States Environmental Protection Agency.

(c) Upon a showing by any party that it has been prejudiced by a failure of the Administrator, Regional Administrator, or Presiding Officer to do any act within the time periods specified under this part the Administrator, Regional Administrator, or Presiding Officer, as the case may be, may grant that party such relief of a procedural nature (including extension of any time for compliance or other action) as may be appropriate.

Part 124, App. A

Appendix A to Part 124 -- Guide to Decisionmaking Under Part 124

This appendix is designed to assist in reading the procedural requirements set out in part 124. It consists of two flow charts.

Figure 1 diagrams the more conventional sequence of procedures EPA expects to follow in processing permits under this part. It outlines how a permit will be applied for, how a draft permit will be prepared and publicly noticed for comment, and how a final permit will be issued under the procedures in subpart A.

This permit may then be appealed to the Administrator, as specified both in subpart A (for RCRA, UIC, or PSD permits), or subpart E or F (for NPDES permits). The first flow chart also briefly outlines which permit decisions are elgible for which types of appeal.

Part 124 also contains special ``non-adversary panel hearing'' procedures based on the ``initial licensing'' provisions of the Administrative Procedure Act. These procedures are set forth in subpart F. In some cases, EPA may only decide to make those procedures applicable after it has gone through the normal subpart A procedures on a draft permit. This process is also diagrammed in Figure 1.

Figure 1-Conventional EPA Permitting Procedures

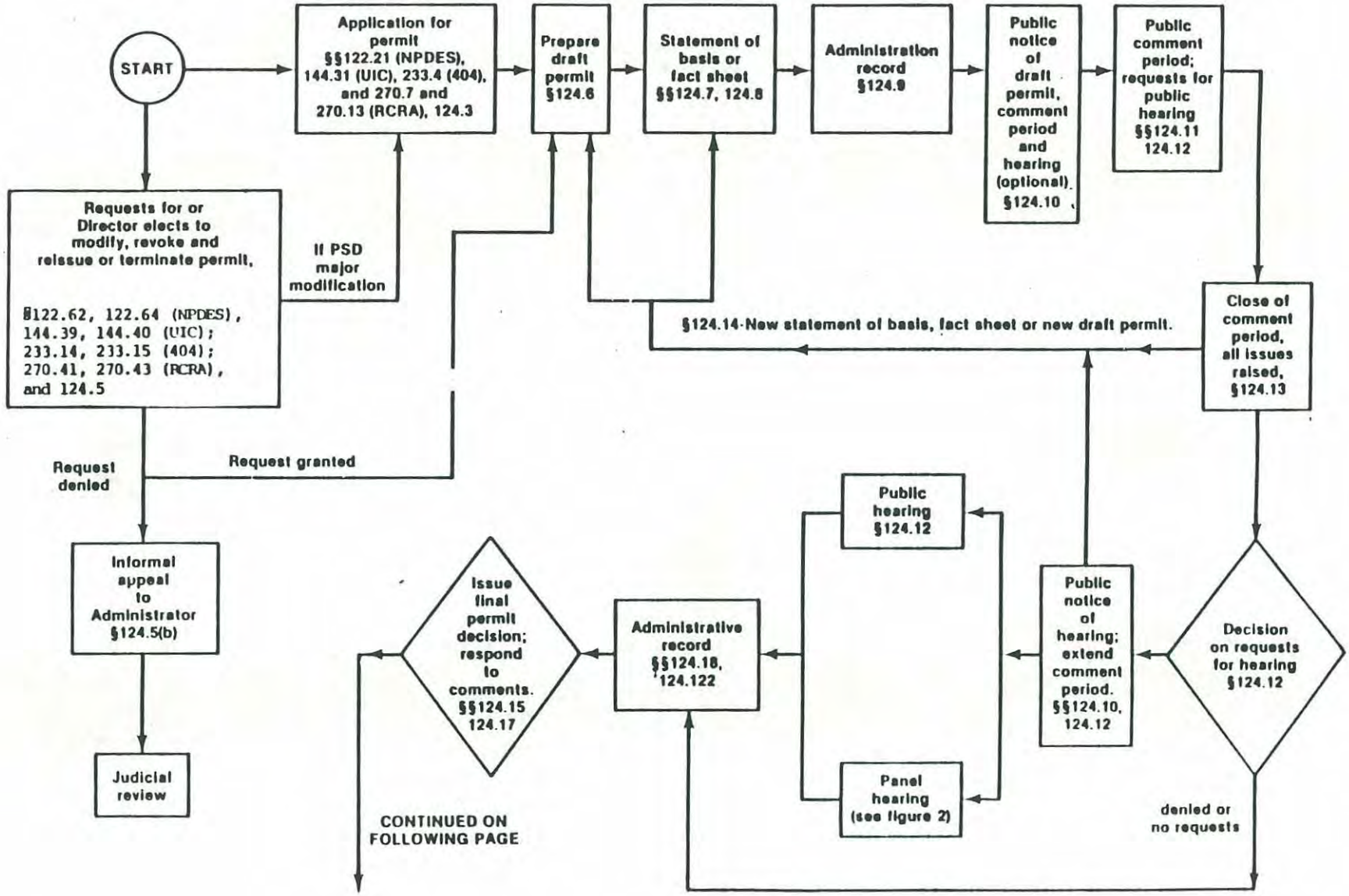
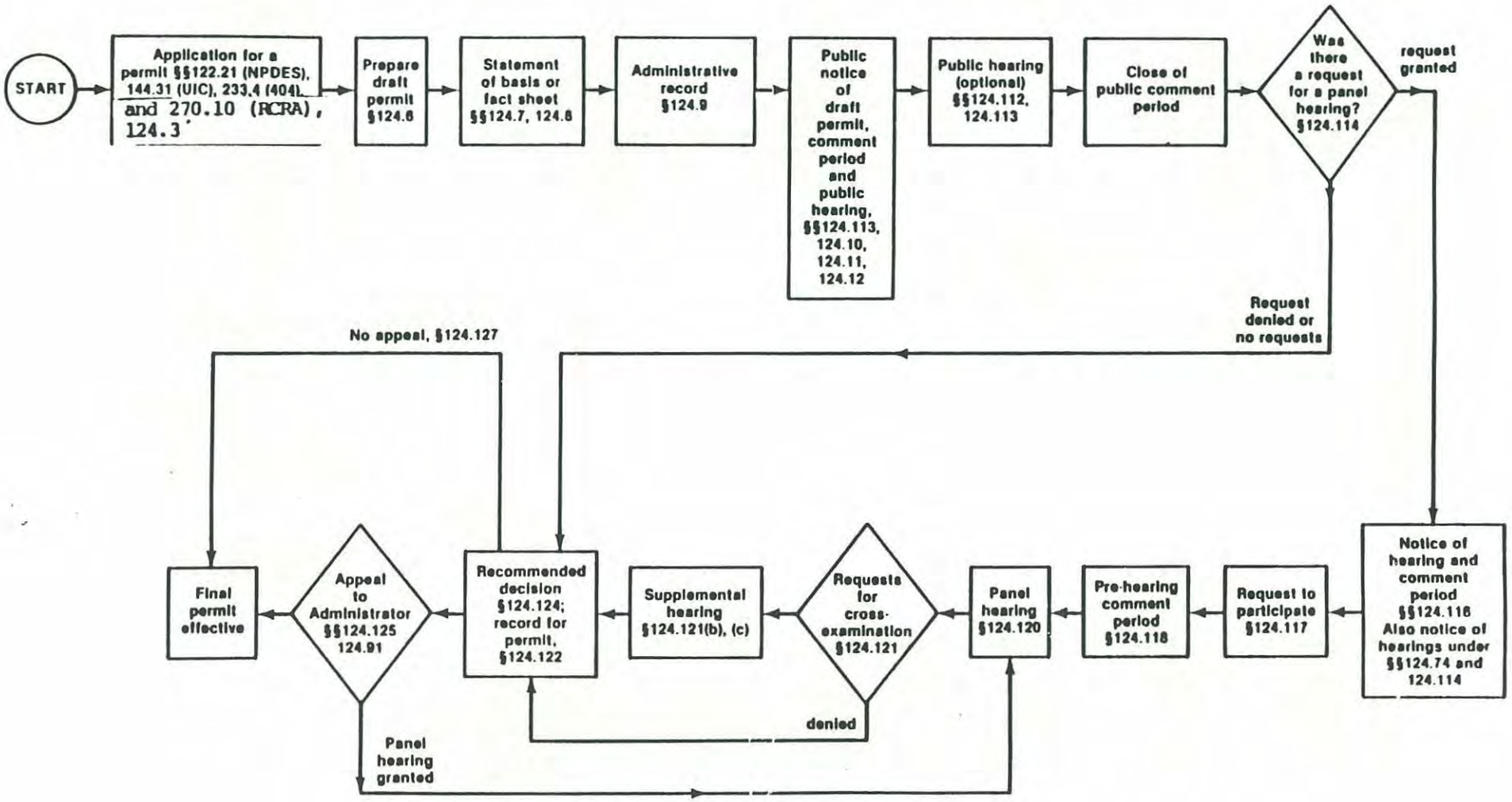


Figure 2-Non-Adversary Panel Procedures



EPA Appeal Procedures